

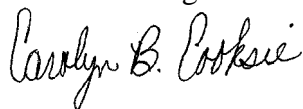
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Guaranteed Loan Making and Servicing
2-FLP**

Amendment 18

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 2 E has been amended to provide RD Instruction references.

Subparagraph 2 F has been amended to include additional FSA handbooks covering FLP guaranteed loan programs.

Subparagraph 2 G has been added to provide guidance about issuing State supplements.

Subparagraph 69.5 C has been amended to require the name, Social Security number, and address of any co-borrowers or co-signers as part of the loan narrative.

Subparagraph 108 D has been amended to clarify that loans made using FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date become a delinquent Federal debt upon the payment of a final loss claim.

Subparagraph 286 A has been amended to clarify that when a loan is consolidated with a loan that was made using FSA-1980-25 or FSA-1980-28 with a July 20, 2001, or later revision date, the consolidated debt is eligible for offset.

Subparagraph 312 A has been amended to require lenders to provide the name, Social Security number, and address of co-borrowers or co-signers required in conjunction with a restructuring action.

Subparagraph 328 B has been amended to clarify that payment of a loss claim with debt writedown does not establish a Federal debt and is not subject to offset.

Subparagraph 344 B has been amended to clarify that a payment of any final loss claim under a Chapter 7 or a reorganization bankruptcy establishes a Federal debt and is not subject to offset.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 360 C has been amended to require lenders to submit the name, Social Security number, and address of any co-borrowers or co-signers with the documentation for a final loss claim.

Subparagraph 360 F has been amended to provide additional information to be submitted with the final loss claim for potential offsetting purposes.

Paragraph 361 has been amended to provide guidance on releasing guaranteed borrowers from liability.

Subparagraph 362 A has been amended to:

- explain how to complete RD-449-30 for future recovery payments
- provide guidance to lenders issuing IRS-1099-C.

Paragraph 363 has been added to explain FSA's procedure for collecting final loss payments from guaranteed loan debtors as required by DCIA.

Exhibit 2 has been amended to add the following definitions:

- centralized offset
- internal administrative offset
- non-centralized administrative offset.

Exhibit 17 has been added to notify individual and entity borrowers that FSA intends to collect the delinquent Federal debt by non-centralized administrative offset, including internal administrative offset, and centralized offset.

Exhibit 18 has been added to notify individual and entity borrowers that FSA has exercised and intends to continue to exercise non-centralized administrative offset, including internal administrative offset, and intends to collect the delinquent Federal debt by centralized offset and other applicable debt collection methods.

Exhibit 19 has been added to notify non-debtor entities that an entity member has a delinquent Federal debt and FSA intends to collect by non-centralized pro rata administrative offset, including internal administrative offset.

Exhibit 20 has been added to notify non-debtor entities that an entity member has a delinquent Federal debt and that FSA has exercised non-centralized pro rata administrative offset, including internal administrative offset and will continue to collect by non-centralized pro rata administrative offset.

Note: Exhibits 17 through 20 will be available in a fillable format from
<http://intranet.fsa.usda.gov>

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Exhibit 21 has been added to notify debtors of the referral of their debts to the Department of Treasury, Treasury Offset Program.

B Complete Section, Part, and Exhibit Reprint

This handbook has been converted to the revised format. Even though every page of the sections, parts, and exhibits being included in this amendment have not been amended, because the handbook has been converted, they are being released for reprint. The major changes are listed in subparagraph A.

Page Control Chart		
TC	Text	Exhibit
5, 6	1-1, 1-2	1, pages 1-4
7	5-1, 5-2	2, pages 1-16
8 (add)	5-2.5, 5-2.6	page 17
	5-3 through 5-14	4, page 1
	8-1, 8-2	17, pages 1-4 (add)
	8-2.5, 8-2.6	page 5 (add)
	8-3 through 8-30	18, pages 1-4 (add)
	9-1 through 9-8	page 5 (add)
	9-8.5 through 9-8.8	19, pages 1, 2 (add)
	9-9 through 9-20	20, pages 1, 2 (add)
	10-1 through 10-14	21, page 1 (add)
	10-15	
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	14-22 (add)	
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	14-27 (add)	

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- 19 Notice to a Non-Debtor Entity of Intent to Collect by Non-Centralized Administrative Offset, Including Internal Administrative Offset From an Entity Member
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- 21 Notice of Referral to the Department of Treasury to Collect Through the Treasury Offset Program (TOP) - Sent by KCFO Only

Part 1 Introduction and Purpose

1 Purpose and Sources of Authority

A Handbook Purpose

--This handbook is designed to assist FSA and lenders in understanding:--

- regulations governing the Guaranteed Farm Loan Program
- roles and responsibilities in processing and servicing FSA-guaranteed loans.

B Sources of Authority

The sources of authority for this handbook include 7 CFR Part 762 and other Agency regulations that may be referenced throughout this handbook.

2 Related References

A FSA Farm Loan Officer Training Modules

FSA Farm Loan Officer Training Modules provide training modules and case studies on specific loan processing and servicing topics for FSA.

B National Internal Review Guide

The National Internal Review Guide is used to review the performance of district, county, and local credit offices with procedural and regulatory requirements.

*--C Websites

The FSA website at <http://www.fsa.usda.gov> contains basic program information and updates for agency programs, including those covered by this handbook.

The FSA intranet website at <http://intranet.fsa.usda.gov> provides electronic access to some FSA handbooks and forms.

The USDA eForms website at <http://www.sc.egov.usda.gov> contains downloadable Agency forms for use by the public.--*

2 Related References (Continued)

D Regulation References

This handbook is designed to accompany 7 CFR Part 762. Throughout this handbook are **regulation references and verbatim citations in bold text**. These references are intended to highlight the requirement spelled out in the regulation. In some instances, a regulation reference may be found at the beginning of a paragraph in parentheses. This reference will be the basis for information within that paragraph. Regulation references in brackets in front of blocks of text are for those blocks of text only. Not all parts of the regulations referenced in the text are highlighted.

*--E RD Instructions

RD Instructions about offset and debt settlement are listed in 1-AS, Exhibit 7, subparagraph B.--*

F Other Related FSA Handbooks

The following FSA handbooks concern FLP guaranteed loan programs.

IF the area of concern is about...	THEN see...
--appraisal reviews and FLP authorities	1-FLP.--
confidentiality	2-INFO.
employee conflict of interest	3-PM.
forms that cannot be accepted by FAX	1-CM.
maintenance of general and administrative files	25-AS.
Privacy Act	3-INFO.
--processing collections	3-FI.--
reports	20-AS.
reviews and appeals	1-APP

*--G State Supplements

Exhibit 4 lists State supplements required by this handbook.

SED's shall:

- issue required supplements, and any additional supplements, according to 1-AS, paragraph 216
- obtain approval of State supplements according to 1-AS, paragraph 220.--*

3-14 (Reserved)

Part 5 Loan Application Requirements (7 CFR 762.110)***--Section 1 Application Requirements for SEL's and CLP Lenders****69 General Application Requirements--*****A Application Requirements**

SEL's and CLP lenders must perform at least the same level of evaluation and documentation for guaranteed loans as for nonguaranteed loans of a similar type and amount.

Good communication with lenders will minimize problems and help ensure a rapid review of applications. The Authorized Agency Official should communicate with lenders throughout the application preparation and submission process. Lenders should be encouraged to:

- contact Authorized Agency Officials for assistance with the application
- address any issues or deficiencies before they become problems.

Lenders may use FSA-1980-01 as an application processing checklist. FSA may use FSA-1980-02 to review an application for completeness.

B Maintaining Complete Loan File

All lenders must compile and maintain in their files a complete application for each guaranteed loan. CLP lenders must certify that the required items, not submitted, are in their files.

--The lender's file must contain the applicable items in paragraphs 69.5 and 69.6 and all correspondence with the borrower regarding servicing actions and other loan-related--
documentation generated after loan approval.

The Agency may request additional information from any lender or review the lender's loan file as needed to make eligibility and approval decisions.

69.5 Requirements for Loans of \$125,000 or Less (7 CFR 762.110)**A Application Package**

A complete application for loans of \$125,000 or less from SEL and CLP lenders must, at least, consist of:

- **the application form** (see subparagraph B)
- **loan narrative** (see subparagraph C)
- **balance sheet** (see subparagraph D)
- **cash flow budget** (see subparagraph E)
- **description of farmed land** (see subparagraph F)
- **credit report** (see subparagraph G)
- **environmental information** (if needed see subparagraph H)
- **information related to entity applicants** (if needed see subparagraph I).

In addition to the minimum requirements, the lender will perform at least the same level of evaluation and documentation for a guaranteed loan that the lender typically performs for non-guaranteed loans of a similar type and amount.

The \$125,000 threshold includes any single loan, or package of loans submitted for consideration at any one time. A lender must not split a loan into two or more parts to meet the threshold thereby avoiding additional documentation.

Separate \$125,000 thresholds apply to FO and OL/LOC. An application requesting guarantees of loans of different types (FO or OL/LOC), each of which is \$125,000 or less, will be processed under the requirements of this paragraph. The maximum loan package that can be processed under this paragraph is \$250,000.

The Agency may require lenders with a lender loss rate in excess of the rate for CLP lenders to assemble additional documentation from paragraph 69.6.

On an individual lender basis, FSA may request additional information to make eligibility and approval decisions.

* * *

69.5 Requirements for Loans of \$125,000 or Less (7 CFR 762.110) (Continued)

B Application Form

Lenders may use FSA-1980-25 or their own loan application form if it contains the same information. If a lender uses its own application form, the lender must attach an executed FSA-1980-25 containing the loan applicant's name and address and any information not on the lender's form.

***--Note:** If the lender submits FSA-1980-25 electronically, then the application shall be processed. However, the original, completed FSA-1980-25, with appropriate signatures, must be provided to the Agency before issuing the guarantee.--*

69.5 Requirements for Loans of \$125,000 or Less (7 CFR 762.110) (Continued)**C Loan Narrative**

The application package must include a narrative description of the lender's underwriting of the loan. The narrative must contain information and analysis of any loan application data that are out of the ordinary, or at variance with normal practices for the type of operation and region. The narrative must be an evaluation and not just a summary of the data. It may be less detailed for a present customer who already has a guaranteed loan or an FSA direct loan.

The narrative should address the following, as applicable:

- describe the farming operation, such as types of enterprises, key personnel and management structure, their roles and background, proposed changes to the operation and adequacy of real estate, equipment, and other facilities
- an assessment of the adequacy of the collateral being offered to secure the proposed loan
- a discussion of the loan applicant's financial condition and projected repayment ability

Note: The lender should discuss any significant assumptions or deviations from historical performance in the proposed cash flow budget.

- *--the name, Social Security number, and current address of any co-borrowers or co-signers required to execute the note at loan closing--*
- the short-term and long-term business goals of the operation
- the borrower's reporting requirements, limitations, and other conditions based on the lender's analysis of the proposal
- lender servicing plan describing the borrower's financial reporting requirements, limitations and conditions, plans for visiting the borrower, and any other borrower supervision
- if the loan contains balloon payments, the conditions related to the renewal of loan
- a discussion of how the loan applicant meets the loan eligibility requirements.

D Balance Sheet

The application package must contain a balance sheet for the loan applicant that was prepared within 90 calendar days of the application submission.

--69.5 Requirements for Loans of \$125,000 or Less (7 CFR 762.110) (Continued)--**E Cash Flow Budget**

The lender should submit a cash flow budget as described in Exhibit 2. If significant changes are expected in the operation during the life of the loan, more than 1 cash flow budget may need to be developed.

F Description of Farmed Land

A description of the location of each tract of land to be farmed by the loan applicant should be provided. This may be by FSA farm number, legal description, plat map, or other identifying method. This may be included as part of the loan narrative.

G Credit Report

A credit report on the loan applicant's credit history must be provided. In addition, lenders should consider any other pertinent information concerning the loan applicant's credit history. CLP lenders are not required to submit the credit report to the agency.

H Environmental Information

Borrowers are required to have a current AD-1026 on file with FSA. Lenders should remind borrowers that AD-1026 must be executed with FSA if one is not already on file.

FSA can conduct its environmental review in most cases without additional information from the lender. However, occasionally additional information is needed, and until this information is received, the application is not complete, and the loan processing timeframe does not start. Situations needing additional information often involve wetland determinations, potential historical or archaeological sites, or construction of major confinement livestock facilities. The review is FSA's responsibility to conduct. However, the information to complete this review is part of a complete application.

I Additional Requirements for Entity Applicants

Entity applicants must submit additional information for each entity member. The application must contain the following information about each entity member:

- name
- address
- Social Security number
- percent ownership interest in the entity
- current balance sheet.

69.6 Requirements for Loans Over \$125,000 (7 CFR 762.110)

A Application Package

A complete application package for a guaranteed loan over \$125,000 will consist of the items in paragraph 69.5, plus subparagraphs B through G.

B Verification of Income

Nonfarm and “other farm” income should be documented using RD-1910-5 or documentation the lender uses for its nonguaranteed loans.

C Verification of Debts Over \$1,000

Verification can be documented using FSA-440-32 or documentation the lender uses for its nonguaranteed loans.

D Financial History

The financial history should support cash flow projections and include 3 years of income and expenses and 3 years of balance sheets.

E Production History

The application should include **3 years of production history (SEL only)**.

F Proposed Loan Agreements

Any proposed nontypical agreements between the lender and the borrower should be explained in the narrative.

G Development Plans

If construction or development is planned, a copy of the plans, a copy of the specifications, and a development schedule is needed.

69.7 Submission Requirements for SEL's and CLP Lenders**A Submission Requirements**

The following table summarizes the submission requirements for SEL's and CLP lenders. In addition to the items submitted to FSA, lenders are expected to maintain in their files all applicable items that do not need to be submitted. Lenders certify that they have the required documentation in their files by signing FSA-1980-25.

Submission Requirement	*--For Loans \$125,000 or Less		For Loans More Than \$125,000--*	
	SEL	CLP Lender	SEL	CLP Lender
Application Form	✓	✓	✓	✓
Loan Narrative	✓	✓	✓	✓
Balance Sheet	✓	✓	✓	✓
Cash Flow Budget	✓	✓	✓	✓
Description of Farmed Land	✓	✓	✓	✓
Entity Information (if applicable)	✓	✓	✓	✓
Credit Report	✓	F	✓	F
Environmental Information (if applicable)	✓	✓	✓	✓
Proposed Loan Agreement			✓	F
Verification of Debts Over \$1,000			✓	F
Verification of Income			✓	F
3 Years of Production History			✓	N/A
3 Years of Financial History			✓	F
Development Plans (if applicable)			✓	F

Note: Items marked with an "F" are items that do not have to be submitted, but must be maintained in the lender's file.

If the lender is requesting IA, the following must be submitted:

- a proposed debt repayment schedule
- a monthly cash flow budget for LOC's.

Part 8 Loan Evaluation**Section 1 Eligibility (7 CFR 762.120)****108 General Eligibility Requirements for OL and FO (7 CFR 762.120)****A Summary of Eligibility Requirements**

A loan applicant and anyone who will execute the promissory note, including members of an entity applicant, must meet the following eligibility criteria to obtain a guaranteed loan. An eligible loan applicant is an applicant that:

- *--meets all requirements about prior debt forgiveness--*
- is not delinquent on any Federal debt
- does not have any outstanding recorded judgments obtained by the United States in a Federal court
- is a citizen of the United States, a U.S. non-citizen national, or a qualified alien under applicable Federal immigrations laws
- has the legal capacity to incur the obligations of the loan
- has an acceptable credit history
- is not able to obtain sufficient credit elsewhere without a guarantee
- has not been convicted of planting, cultivating, growing, producing, harvesting, or storing a controlled substance within the last 5 crop years.

The Authorized Agency Official will document in the FSA running record that the loan applicant meets all eligibility requirements.

B Clarification of Loan Applicant

In this part, the loan applicant includes any person who will execute the promissory note. In the case of an entity, the loan applicant includes all the members of the entity who will execute the promissory note.

108 General Eligibility Requirements for OL and FO (7 CFR 762.120) (Continued)

C No Agency Loss

***--The applicant, and anyone who will execute the promissory note, has not caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the CONACT by debt write-down or write-off; compromise, adjustment, reduction, or charge-off under the provisions of section 331 of the CONACT; discharge in bankruptcy; or through payment of a guaranteed loss claim on more than three occasions on or prior to April 4, 1996 or on any occasion after April 4, 1996, except as noted below.**

The applicant may receive a guaranteed OL to pay annual farm and ranch operating and family living expenses, provided the applicant meets all other requirements for the loan, if the applicant and anyone who will execute the promissory note:

- **received a write-down under section 353 of the CONACT**
- **is current on payments under a confirmed reorganization plan under Chapter 11, 12, or 13 of Title 11 of the United States Code**
- **received debt forgiveness on not more than one occasion after April 4, 1996, resulting directly and primarily from a Presidentially-designated emergency for a county or contiguous county in which the applicant operates. Only applicants who were current on all existing direct and guaranteed FSA loans prior to the beginning date of the incidence period for a Presidentially-designated emergency and received debt forgiveness on that debt within three years after the designation of such emergency meet this exception.**

Notes: A CONACT loan is any of the following, whether direct or guaranteed, made by FSA or its predecessor agency (FmHA):

- FO
- OL
- SW
- EM
- EE
- EO
- RL
- RHF
- EL.

Debt forgiveness does not include any writedown provided as part of a resolution of a discrimination complaint.--*

108 General Eligibility Requirements for OL and FO (7 CFR 762.120) (Continued)**C No Agency Loss (Continued)**

A borrower who has successfully completed a bankruptcy reorganization plan will be considered to be current on the plan.

All debt forgiveness actions that are part of 1 transaction and occur on or about the same date are normally considered 1 occasion of debt forgiveness, regardless of the number of loans involved. Since debt forgiveness on direct loans and guaranteed loans are always considered separate transactions, concurrent forgiveness on direct and guaranteed loans are separate occasions. A single loan may have debt forgiveness on more than 1 occasion, when, for example, a borrower received a writedown and the loan was later liquidated at a loss.

A lender should contact the local FSA office if it is unsure of a loan applicant's eligibility.

108 General Eligibility Requirements for OL and FO (7 CFR 762.120) (Continued)**D Delinquency on Federal Debt**

The loan applicant, and anyone who will execute the promissory note, is not delinquent on any Federal debt, other than a debt under the Internal Revenue Code of 1986. Any debt under the Internal Revenue code of 1986 may be considered by the lender in determining cash flow and credit worthiness.

The loan applicant may be considered eligible if the delinquency will be remedied by the date of loan closing. Unless otherwise prohibited, loan applicants may use loan funds to cure delinquencies. Federal debt includes, but is not limited to, student loans, CCC loans, FSA direct loans, VA loans, and SBA loans. FSA-guaranteed loans are not Federal debts.

--Loans made using FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date become a delinquent Federal debt upon the payment of a final loss claim.--

E Outstanding Recorded Judgments

The loan applicant, and anyone who will execute the promissory note, has no outstanding unpaid judgments obtained by the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts.

Loan applicants must provide evidence that all Federal judgments have been released or paid in full to be eligible for guaranteed loans. Loan funds will not be used to pay Federal judgments. Questions by FSA employees regarding outstanding judgments should be directed to OGC.

F United States Citizenship

The applicant must be a citizen of the United States, a United States non-citizen national, or a qualified alien under applicable Federal immigration laws. For an entity applicant, the majority interest of the entity must be held by members who are United States citizens, United States non-citizen nationals, or qualified aliens under applicable Federal immigration laws.

United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

U.S. non-citizen nationals and qualified aliens must submit appropriate documentation to verify immigration status as provided in Exhibits 7 and 8, as applicable.

108 General Eligibility Requirements for OL and FO (7 CFR 762.120) (Continued)**G Legal Capacity to Incur Loan**

The loan applicant and all borrowers on the loan must possess the legal capacity to incur the obligations of the loan.

The loan applicant must be of legal age, mental capacity, and authority to enter into a legally binding agreement with the lender. An entity applicant and the entity members must be able to enter into such a contract.

H Past Dealings

The loan applicant, in past dealings with the Agency, must not have provided the Agency with false or misleading documents or statements.

I Credit History

The individual or entity loan applicant and all entity members must have acceptable credit history demonstrated by debt repayment. A history of failures to repay past debts as they came due when the ability to repay was within their control will demonstrate unacceptable credit history. Unacceptable credit history will not include either of the following:

- **isolated instances of late payments which do not represent a pattern and were clearly beyond their control**
- **lack of credit history.**

J Test for Credit

The loan applicant is unable to obtain sufficient credit elsewhere without a guarantee to finance actual needs at reasonable rates and terms. The potential for sale of any significant nonessential assets will be considered when evaluating the availability of other credit. Ownership interests in property and income received by an individual or entity loan applicant, or any entity members as individuals also will be considered when evaluating the availability of other credit to the loan applicant.

The loan applicant's inability to obtain credit will be demonstrated when the lender certifies that they would not make the loan without a guarantee. The lender certifies this by signing the application form.

108 General Eligibility Requirements for OL and FO (7 CFR 762.120) (Continued)**J Test for Credit (Continued)**

If the loan applicant has significant assets that are not essential to the farm operation, and the sale of those assets would remove the need for a guarantee, the loan applicant does not meet the test for credit requirement.

Assets and income of the entity members will also be considered when evaluating the availability of other credit to the entity applicant.

The Authorized Agency Official shall:

- review the financial information supplied by the lender in conjunction with information compiled under RD Instruction 1951-F
- document that the loan requested does not meet the lender's loan requirements without a guarantee.

K Controlled Substances

Neither the applicant nor any entity member has been convicted of planting, cultivating, growing, producing, harvesting, or storing a controlled substance under Federal or state law within the last five crop years. "Controlled substance" is defined at 21 CFR part 1308. Applicants must certify on the Agency application form that it and its members, if an entity, have not been convicted of such a crime within the relevant period. If the lender uses the lender's Agency approved forms, the certification may be an attachment to the form.

--The applicant also certifies that he or she as an individual, or any member of an entity applicant, is not ineligible for Federal benefits based on a conviction for the distribution of controlled substances or any offense involving the possession of a controlled substance under 21 U.S.C. 862. Applicants must certify the above on the Agency application form or, if the lender uses the lender's Agency-approved forms, the certification may be an attachment to the form.--

109 Specific Requirements for OL's (7 CFR 762.120(i))**A Operator Requirement**

For Operating Loans, the individual or entity loan applicant must be an operator of not larger than a family farm after the loan is closed.

When determining whether or not the farm meets the family farm definition, the Authorized Agency Official shall:

- analyze all the factors that make up the regulatory definition of family farm and the items discussed in the following table
- look at all aspects and the circumstances of the farm operations.

Note: Consider and analyze these factors and how they relate to one another.

Application of judgment, combined with documentation of all the factors for the decision, should provide reasonable determinations of an applicant's qualifications as a family farm.

Item	Factor	Consideration
1	Recognized in the community as a farm	Consider how the applicant's farm operation compares to similar farm operations in the community. In most areas of the country and in most farming enterprises, the family will provide most of the day-to-day labor on a family farm. An exception may be made for enterprises that produce high-value, labor-intensive crops, such as fruit or vegetables.
2	Management and control of the farm business	All of the day-to-day management and operational decisions should be made by members of the farm family. The use of consultants, advisors, and similar experts is certainly acceptable provided someone in the farm family is the decisionmaker.
3	Amount of labor	A substantial amount of the full-time labor required must be contributed by family or entity members to the operation. The use of seasonally hired labor should not be precluded. The borrower may not necessarily perform a majority of the labor, but the amount of labor provided by the borrower is significant. One distinguishing characteristic of a family farm is that the family members provide both physical labor and management for the farm. Consider the labor requirements that are necessary for the production of specific high-value, labor-intensive crops.

109 Specific Requirements for OL's (7 CFR 762.120(i)) (Continued)

A Operator Requirement (Continued)

Item	Factor	Consideration
4	Credit needs	Congress established FSA's loan limits to assist family-sized operations. The loan limits generally ensure that loans are made to family farm operations. It is also important that every effort be made to ensure that loans are made only when it is certain that other credit is not available. Loan participation arrangements are acceptable when FSA farm loans cannot meet the total needs; but, if maximum FSA farm loans are a small portion of the total credit requirements, this may be another indicator of a larger than family-size farm when considered with other factors, or that credit is available from another source.

B Entity Borrower Requirements

In the case of an entity borrower:

- the entity must be authorized to operate, and own if the entity is also an owner, a farm in the state or states in which the farm is located
- either of the following:
 - if the entity members holding a majority interest are related by marriage or blood, at least one member of the entity also must operate the family farm
 - if the entity members holding a majority interest are not related by marriage or blood, the entity members holding a majority interest must also operate the family farm.

Note: The entity can be the operator for organizational or tax purposes in either case.

110 Specific Requirements for FO's (7 CFR 762.120(j))**A Owner and Operator Requirement**

For Farm Ownership Loans, the individual must be the operator and owner of not larger than a family farm after the loan is closed.

The loan applicant must own the farm to obtain FO. The factors in subparagraph 109 A will be considered when determining whether or not the farm meets the family farm definition. Farmers also may lease farm land in addition to the land they own.

B Entity Requirements

In the case of an entity borrower:

- **the entity must be authorized to own and operate a farm in the state or states in which the farm is located**
- **either of the following:**
 - **if the entity members holding a majority interest are related by marriage or blood, at least one member of the entity must operate the family farm and at least one member of the entity or the entity must own the family farm**
 - **if the entity members holding a majority interest are not related by marriage or blood, the entity members holding a majority interest must operate the family farm and the entity members holding a majority interest or the entity must own the family farm.**

Note: The entity can be the operator for organizational or tax purposes in either case.

110 Specific Requirements for FO's (7 CFR 762.120(j)) (Continued)

C Life Estates

FO's may be guaranteed under some circumstances when life estates are involved.

A guaranteed FO can be made to:

- both the life estate holder and the remainderman, if:
 - both have a legal right to occupy and operate the farm
 - both are eligible for the loan independently
 - both parties sign the note and lien instrument
- just the remainderman, if:
 - the remainderman has a legal right to occupy and operate the farm
 - the lien instrument is signed by the remainderman, life estate holder, and any other party having any interest in the security
- just the life estate holder, if:
 - there is no restriction placed on a life estate holder who occupies and operates a farm
 - the lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

111 Eligibility Requirements for Entity Loan Applicants (7 CFR 762.120(k))

A Individual Ownership Interest Requirement

Each entity member's ownership interest may not exceed the family farm definition limits.

B Entity Ownership of Large Farms

The collective ownership interest of all entity members may exceed the family farm definition limits only if the following conditions are met:

- **all of the entity members are related by blood or marriage**
- **all of the members are or will be operators of the entity**
- **the majority interest holders of the entity must meet the requirements of paragraphs 108 F, H, I, and 109 and 110 of this section.**

The majority interest holders of the entity must meet the following requirements:

- the entity member is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence
- the entity member, in past dealings with the Agency, must not have provided the Agency with false or misleading documents or statements
- the entity member has an acceptable credit history
- the entity members meet the requirements of paragraph 109 or 110.

C Domestic Farmer or Rancher

The entity must be controlled by farmers or ranchers engaged primarily and directly in farming or ranching in the United States after the loan is made.

D Entity Member Requirement

The entity members are not themselves entities.

112-121 (Reserved)

Part 9 IA Program (7 CFR 762.150)

223 Purpose of IA Program

A Purpose

The IA Program enables lenders to provide credit to operators of family farms who do not have the financial resources to meet the standard repayment terms * * *. Under this program, FSA enters into an agreement with the lender to reimburse the lender * * * 4 percentage points on the loan, in exchange for the lender reducing the interest rate charged to the borrower. IA is available for new guaranteed loans and existing guaranteed loans meeting certain criteria.

224 General Rules (7 CFR 762.150(b))

A Eligibility

IA can be provided to both new and existing borrowers for OL and FO; however, funding is generally only available for new OL as described in subparagraph 226 B. Loan applicants *--can obtain IA to achieve a feasible plan if they meet all other eligibility requirements. Existing borrowers may obtain IA if their financial position deteriorates and they no longer can project a feasible plan at their current rates and terms. **The borrower must be an--* operator of not larger than a family size farm.**

B Repayment Terms

The typical term of scheduled loan repayment will not be reduced solely for the purpose of maximizing eligibility for interest assistance. To be eligible for interest assistance, a loan/line of credit must be scheduled over the maximum terms typically used by lenders for similar type loans within the limits set by paragraph 137. At a minimum, loans will be scheduled for repayment over the terms listed below, but for OL not to exceed the life of the security:

- **OL for the purpose of providing annual operating and living expenses will be scheduled for repayment when the income is scheduled to be received from the sale of the crops, livestock, and livestock products which will serve as security for the loan**
- **OL for purposes other than annual operating and living expenses (i.e. equipment, livestock, refinancing of existing debt) will be scheduled over 7 years from the effective date of the proposed interest assistance agreement**

--Note: Balloon installments are not prohibited if longer terms are needed.--

- **FO secured by real estate, 20 years from the closing date of the original note covered by the guarantee.**

224 General Rules (7 CFR 762.150(b)) (Continued)

C Interest Rates

The lender may charge a fixed or variable interest rate. The type of rate must be the same as the type of rate in the underlying note or line of credit agreement. The lender will reduce the interest rate charged the borrower's account by at least the amount of interest assistance.

The interest rate that the lender will charge, as well as any base rate and points, must be clearly indicated in the application.

The lender and borrower may change the interest rate on the loan at anytime as provided in paragraph 284.

D Feasible Plan

The lender must document that a feasible plan is not possible without reducing the interest rate on the borrower's loan and with the debt restructured over the term of repayment * * *.

For new loans, a borrower's new guaranteed loan is eligible for interest assistance if all the following conditions are met.

- **The applicant needs interest assistance in order to achieve a feasible plan.**
- **If significant changes in the borrower's cash flow budget are anticipated after the initial 12 months, then the typical cash flow budget must demonstrate that the borrower will still have a feasible plan following the anticipated changes, with or without interest assistance.**
- A borrower may qualify for interest assistance with either an initial or a typical cash flow budget where cash inflows are less than outflows. If the initial cash flow budget shows inflows greater than outflows, but the typical cash flow budget shows outflows greater than inflows, then the loan may be obligated as a subsidized loan and a 0 percent subsidy placed on the loan for the first year. Subsequent year reviews will be conducted normally to determine whether to approve an increase in subsidy.
- If a feasible plan cannot be achieved, the lender may ask other creditors to voluntarily adjust their debts. If other creditors adjust their debts and a feasible plan can be achieved with IA, then IA may be approved.
- **If a feasible plan cannot be achieved, even with other creditors voluntarily adjusting their debts and with the interest assistance, the interest assistance request will not be approved.**

224 General Rules (7 CFR 762.150(b)) (Continued)

D Feasible Plan (Continued)

The following apply for existing guaranteed loans not currently under FSA-1980-64.

- **An existing guaranteed loan is eligible for interest assistance if the borrower needs interest assistance to achieve a feasible plan and the borrower meets the eligibility criteria of Part 8, Section 1, except the provision regarding prior debt forgiveness (subparagraph 108 C).**
- **If a borrower has multiple loans, interest assistance may be provided on one or each loan, as available, to the extent necessary to achieve a feasible plan.**

* * *

E Term of FSA-1980-64

The term of the interest assistance agreement under this section shall not exceed 10 years from the date of the first interest assistance agreement signed by the loan applicant, including entity members, or the outstanding term of the loan, as limited by this section, whichever is less.

The term is limited by the first FSA-1980-64.

FSA-1980-64's shall be approved for a term not in excess of 10 years minus the period of time since the first FSA-1980-64 was signed.

Note: The period of time a borrower was subject to an Interest Rate Buydown Agreement will not be considered in this limitation.

Transition Rule: Borrowers with FSA-1980-64 signed before February 12, 1992, may be considered for an additional 3 years of assistance under the exception authority in paragraph 232.

F Nonessential Assets

The lender must determine whether the borrower, including members of an entity, owns any significant assets which do not contribute directly to essential family living or farm operations. The lender must determine the market value of these assets and prepare a cash flow budget based on the assumption that the value of these assets will be used for debt reduction. If a feasible plan can then be achieved, the borrower is not eligible for interest assistance. All interest assistance calculations will be based on the cash-flow budget which assumes that the assets will be sold.

225 Application Requirements (7 CFR 762.150(a))

A Applying for IA

To apply for IA, the lender shall submit:

- **for new guaranteed loans:**
 - **--a completed cash flow budget and interest assistance needs analysis portion of--***
the application form

Note: Interest Assistance can be applied to each loan, only to one loan or any distribution the lender selects; however, interest assistance is only
--available on as many loans as necessary to achieve a feasible plan.--*

- **for loans with unequal payments, a proposed debt repayment schedule which shows principal and interest payments for the subject loan, in each year of the loan**
 - **--for existing guaranteed loans not currently under an FSA-1980-64:**
 - **a completed cash flow budget and interest assistance needs analysis portion of--***
the application form
- Note:** Interest assistance can be applied to each loan, only to one loan or any distribution the lender selects as required to achieve a feasible plan.
- **for loans with unequal payments, a proposed debt repayment schedule which shows scheduled payments for the subject loan in each of the remaining years of the loan.**

* * *

Note: Requests for interest assistance on lines of credit or loans made for annual operating purposes must be accompanied by a projected monthly cash flow budget.

226 Evaluating and Approving or Denying IA Requests

A Evaluating IA Requests

Applications for IA will be evaluated according to Part 8, Sections 1 through 3. Additionally, the Authorized Agency Official shall determine whether or not all applicable requirements of this part have been met. The approval official shall check that:

- all mathematical computations are accurate
- the loan and loan applicant are eligible to receive IA
- nonessential assets are considered.

B Approving IA Requests

Because of funding limitations, IA may be approved for the following:

- for new loans, OL's only
- for existing loans, either of the following:
 - OL's or FO's that were originally obligated with IA
 - OL's or FO's obligated on or before September 30, 1991.

If the approval official determines that IA can be approved, the approval official shall do the following.

Step	Action
1	Prepare RD-1940-3. RD-1940-3 is used to obligate FSA funds including IA: <ul style="list-style-type: none"> • for new loans • for existing loans, which are presently guaranteed without IA • when the term of IA is to be extended.
2	Execute RD-1940-3 and distribute copies according to FMI.

226 Evaluating and Approving or Denying IA Requests (Continued)

B Approving IA Requests (Continued)

Step	Action
3	*--Verify that the obligation of funds has been completed on GLS. Place a--* printout of this in the case file.
4	For requests that include loan funds in addition to IA funds, prepare FSA-1980-15. Note: In no case will FSA-1980-15 be executed before verification of the obligation of both loan/LOC and IA funds.
5	For requests for IA on existing guaranteed loans, the approval official will notify the lender in writing that the request has been approved.

C Denying IA Requests

If the loan applicant is found ineligible for the loan guarantee or the guarantee cannot be approved for other reasons, the approval official shall notify the lender and loan applicant according to paragraph 83.

If the request for guarantee can be approved or has previously been approved and the request for IA is denied, the lender will be notified according to paragraph 229.

227 IA Closing (7 CFR 762.150(c))

A Closing Requirements

Initial guaranteed loans will be closed in accordance with Part 10. IA will be closed according to this table.

Step	Action
1	<p>The lender will then prepare and deliver to the Agency a closing report for each initial and existing guaranteed loan which has been granted interest assistance.</p> <p>Lender shall submit RD 1980-19.</p> <p>*--If a lender indicates a 360/365 accrual method on the promissory note, ENTER "365" on RD-1980-19, item 28.--*</p>
2	<p>When all requirements have been met, the lender and the Agency will execute an interest assistance agreement.</p> <p>Agency, lender, and borrower shall execute FSA-1980-64.</p> <ul style="list-style-type: none"> • An original FSA-1980-64 will be prepared for each note or LOC agreement executed. • FSA-1980-64 will be executed even if there is a 0 percent subsidy for the first year. • All originals of FSA-1980-64 will be provided to the lender and attached to the note with the original guarantee.

228 Annual Request for IA Payment or Continuation (7 CFR 762.150)

A Request for IA Payment and Renewal

Within 60 calendar days of the annual review date, the lender shall submit the following to FSA:

- for payment claim information:

- FSA-1980-24

Notes: FSA-1980-24 shall be used to both request payment for the previous year and document the need for IA for the coming year.

The lender shall provide FSA with an Electronic Funds Transfer account number so the IA payment may be transmitted to them electronically.

- a detailed statement of activity, including all disbursements and payments applied to the loan or LOC account
- detailed calculations of ADPB's for the claim period

Notes: All claims will be supported by detailed calculations of average daily principal balance during the claim period.

*--Calculate ADP by multiplying the principal balance times the actual number of days it is outstanding. The sum of the daily principal balance is then divided by the total calendar days outstanding for a partial year or by 365 calendar days for a full year regardless of the interest accrual method to calculate ADPB.

The following is an example of a **partial year** calculation for ADPB.

Date	Number of Days	Principal Balance	Total
June 12 - August 2	51	\$15,000	\$765,000
August 3 - September 28	57	\$10,000	\$570,000
September 29 - October 29	31	\$12,000	\$372,000
Total	139		\$1,707,000

$\$1,707,000 \div 139 = \$12,280.58$ ADPB for the partial year.--*

228 Annual Request for IA Payment or Continuation (7 CFR 762.150) (Continued)

A Request for IA Payment and Renewal (Continued)

*--The following is an example of a full year calculation for ADPB.

Date	Number of Days	Principal Balance	Total
January 1 - April 15	105	\$25,000	\$2,625,000
April 16 - July 15	91	\$20,000	\$1,820,000
July 16 - September 15	62	\$15,000	\$930,000
September 16 - January 1	107	\$10,000	\$1,020,000
Total	365		\$6,445,000

$\$6,445,000 \div 365 = \$17,657.53$ ADPB for a full year.

- The lender can use interest basis (360, 365, 360/365) as indicated by the promissory note for calculating interest for the borrower. Some methods results in a slightly higher interest payment by the borrower; however, this is irrelevant to the amount FSA is allowed to pay, which is fixed by law at 4 percent.
- An interest assistance claim submitted with interest accrual based on 360 and then multiplied by 365 is not acceptable.
- If a loan is closed on a 365-calendar-day basis, interest that accrues on February 29 is not recognized by the finance office computer system and will not be paid.
- GLS does not count the first day of the claim period. The ending day of a claim period becomes the first day on the next claim period.--*

228 Annual Request for IA Payment or Continuation (7 CFR 762.150) (Continued)

A Request for IA Payment and Renewal (Continued)

*--Interest assistance will be calculated and paid according to the formulas indicated in the following table.

Full Year	
ADPB x 4 percent	
Note: Interest basis is not an issue.	
Example: \$100,000 x 4 percent = \$4,000	
Partial Year (360-Day Base)	
ADPB x 4 percent x [(number of months in the claim period x 30 calendar days) + additional days in excess of a month] ÷ 360	
Note: Convert all months to 30 calendar days. The system does not count the first day of the claim period. The ending day of a claim period becomes the first day on the next claim period.	
Example: Claim period is March 1 through June 5 (3 months x 30 calendar days = 90 + 5 - 1 = 94 calendar days). \$100,000 x 4 percent = \$4,000 x 94 calendar days ÷ 360 = \$1,044.44 interest assistance payment.	
Partial Year (365-Day Base)	
ADPB x 4 percent x actual days in the claim period ÷ 365.	
Note: Count actual days in the month. The system does not count the first day of the claim period. The ending day of a claim period becomes the first day on the next claim period.	
Example: Claim period is March 1 through June 5, which equals 97 - 1 calendar days. \$100,000 x 4 percent = \$4,000 x 96 calendar days ÷ 365 = \$1,052.05 interest assistance payment.	

--*

228 Annual Request for IA Payment or Continuation (7 CFR 762.150) (Continued)**A Request for IA Payment and Renewal (Continued)**

- for a continuation of IA:
 - a summary of the operation's actual financial performance in the previous year, including a detailed income and expense statement
 - a narrative description of the causes of any major differences between the previous year's projections and actual performance

Note: For all IA agreements exceeding 12 months, the lender will perform an analysis of the applicant's farming operation and need for continued IA.

- a current balance sheet
- a cash flow budget for the period being planned

Note: A monthly cash-flow budget is required for all lines of credit and OL's made for annual operating purposes. All other loans may include either an annual or monthly cash flow budget.

- a copy of the interest assistance needs analysis portion of the application form which has been completed based on the planned period's cash flow budget.

***--B Interest Assistance Loans With Interest Rates Below 4 Percent**

The "ADD Interest Asst Claim" transaction in GLS programmatically calculates the interest assistance payable by multiplying ADPB entered times 4 percent. However, FSA cannot pay an interest assistance claim in excess of the interest that has accrued during the claim period.

To process an interest assistance payment when the interest rate has averaged below 4 percent, Authorized Agency Officials must determine ADPB by completing the following:

- total the interest that accrued at the note rate
- divide the total accrued interest by 4 percent to calculate an adjusted ADPB.

The Authorized Agency Official shall then enter the agency-adjusted ADPB in the "Avg. Prin Balance" field to process the interest assistance claim.--*

228 Annual Request for IA Payment or Continuation (7 CFR 762.150) (Continued)

C Final Request for Payment

Upon full payment of the note or line of credit, the lender will immediately prepare the request for interest assistance payment and submit it to the Agency.

The final claim period may be less than 12 months.

D Final IA Requests From Liquidated Accounts

Final IA claims must be submitted concurrently with the submission of any estimated loss claims, which cause interest to cease to accrue, or with final loss claims.

228 Annual Request for IA Payment or Continuation (7 CFR 762.150) (Continued)**E Rules for IA Claims**

No claim period can exceed 12 months. The initial and final claim periods may be less than 12 months. In such claims, the 4 percent payment will be prorated over the number of days in the claim period. The period for all other claims must be 12 months.

- The initial claim will cover the entire period between the effective date of the agreement and the annual review date.
- Subsequent requests must cover 12-month periods of IA, and must be prepared by the lender and submitted within 60 calendar days after the annual review date.

To permit the borrower to prepare for the upcoming year, a claim should be filed within 60 days of each anniversary date. Claims not filed within 1 year will not be paid and the amount due the lender is permanently forfeited.

FSA-1980-24 should be submitted even if the claim amount is 0.

If a claim is submitted without an interest assistance review, when it is required, the claim will not be processed until the review is submitted by the lender.

Interest assistance claims shall be submitted concurrently with the submission of estimated loss claims where interest accrual ceases, or final loss claims that are not preceded by an estimated loss claim.

F Rules for Continuation of IA

A request for continuation of Interest Assistance will be completed for 12 month periods, effective on the anniversary date.

The initial review may be submitted in conjunction with any claim within the initial 12 month period. The anniversary date and length of the review period will be stated on the interest assistance agreement. Any request for interest assistance adjustment submitted effective any time other than the review date will be denied, except for those cases where it is necessary to service the loan with rescheduling, reamortization, deferral or writedown.

228 Annual Request for IA Payment or Continuation (7 CFR 762.150) (Continued)

F Rules for Continuation of IA (Continued)

The loan will be eligible for continuation of interest assistance if the cash flow budget projects a feasible plan with interest assistance applied.

To continue IA, the cash flow budget must project that a feasible plan is not possible without subsidy, but at least a feasible plan can be achieved with 4 percent subsidy.

However, IA can be applied only to as many loans as necessary to achieve a positive cash flow for the plan period.

If the cash flow budget indicates that the borrower requires a level of interest assistance greater than 4 percent to project a feasible plan, then the Agency will deny the continuation of interest assistance. Interest assistance will be reduced to zero during that period. The lender will be notified according to paragraph 229.

If the review is not completed and submitted to the Agency within 1 year of the review date, no claim will be paid for that period.

G FSA Review of Request for IA Payment

Follow this table for reviewing IA payment requests.

Step	Action
1	The Agency will review the claim and the supporting documentation within 3 workdays of receipt. If the information and the supporting documentation is not complete and correct, the reviewing official will notify the lender in writing of the actions needed to correct the request.
2	The reviewing official shall document a comparison of actual and projected income and expenses. Any major differences from previous projections to actual performance as well as major changes from the previous year's balance sheet should be noted.
3	The Authorized Agency Official shall complete the appropriate portion of FSA-1980-24 to reflect the amount of IA approved for the coming year. This should be completed even if the assistance level will be 0 percent so that adjustments in the obligation records can be made.
4	The original will be returned to the lender for attachment to the original FSA-1980-64.

229 Notification of Adverse Action

A Notification of FSA Action

The lender will be notified in writing of all Agency decisions in which a request for interest assistance, a request for continuation of interest assistance or lender's claim for interest assistance are denied. The notification letter will provide specific reasons for the decision and appeals will be handled in accordance with parts 11 and 780 of this title.

230 Servicing of Loans Covered by FSA-1980-64 (7 CFR 762.150(g))

A Consolidation of Loans

Loans covered by Interest Assistance Agreements cannot be consolidated.

B Transfer and Assumption

Interest assistance payments shall cease upon the assumption and transfer of the loan if the transferee was not liable for the debt on the effective date of the interest assistance agreement. The lender shall request payment through the date of the transfer or assumption. The claim must be submitted within 1 year or it will be denied and the payment permanently forfeited.

The loan will be transferred with the interest assistance agreement only in cases where the transferee was liable for the debt at the time the interest assistance was granted.

Under no other circumstances will the interest assistance be transferred. If interest *--assistance is necessary for the transferee to achieve a feasible plan, the lender may request such assistance, which may be approved if interest assistance funds are available and the applicant is eligible. The maximum length of the agreement will be 10 years from the date of the first agreement covering a loan for which the transferee was liable. If Interest Assistance is necessary for a feasible plan and funds are not--* available, the request for assumption of the Agency guaranteed debt will be denied.

230 Servicing of Loans Covered by FSA-1980-64 (7 CFR 762.150) (Continued)**C Loan Writedowns**

When consideration is given to using a debt writedown to service a delinquent account, the subsidy level will be recalculated prior to any writedown. If a feasible plan can be obtained using interest assistance and funds are available, then the interest assistance will be authorized and no writedown will be approved. If a feasible plan cannot be achieved using 4 percent interest assistance, all further calculations for determining debt writedown eligibility and amounts to be written down will be based on the borrower receiving no interest assistance. If debt writedown is approved, the interest assistance claim for the previous review period will be processed in conjunction with the writedown loss claim. The interest assistance agreement will not be canceled and the anniversary date can remain the same or be re-established under the same guidelines that it was originally established. IA will continue with a 0 subsidy amount for the first year of the writedown. If the lender determines through its annual analysis that interest assistance is necessary for a feasible plan, a request to reinstate the subsidy in a subsequent review period may be submitted in accordance with subparagraph 228 A.

D Reamortization, Rescheduling, or Deferral of Loans

In the event of rescheduling or deferral of loans with interest assistance, interest assistance will remain available for that loan under the terms of the existing interest assistance agreement. Additional years of interest assistance and increases in the restructured loan amount will require additional funding. If the additional interest assistance is needed in order to produce a feasible plan throughout the life of the rescheduled loan and funds are not available for the additional interest assistance, then the rescheduling will not be approved by the Agency. In no case will the subsidy be extended more than 10 years from the effective date of the first interest assistance agreement signed by the loan applicant or by anyone who signed the note or line of credit agreement. A review will be completed, according to subparagraph 228 A. The anniversary date can remain the same or be re-established under the same guidelines that it was originally established.

* * *

230 Servicing of Loans Covered by FSA-1980-64 (7 CFR 762.150) (Continued)**D Reamortization, Rescheduling, or Deferral of Loans (Continued)**

*--If additional funding is required because of additional years of IA, the Authorized Agency Official must modify loan documents according to the following table.

Original Loan Document	Action
FSA-1940-3	In item 5, ENTER "This loan has been restructured. The term of the IA is being modified from __ years to __ years." Modify the GLS Obligation Input Screen to indicate the correct IA term.
FmHA 1940-3, FSA-1940-3, or RD 1940-3	If the loan was not obligated in GLS, modify the IA term in item 19.
FSA's copy of FSA-1980-64	Enter the date the loan was restructured in Part A, item 6. Strike through the original expiration date and enter the new expiration date as applicable. The lender, borrower, and FSA shall initial the changes.

Notes: The effective ending date must be equal to or before the new loan maturity date but cannot be greater than 10 years from the effective date of the borrower's first FSA-1980-64 unless exception authority has been granted according to paragraph 232.

Copies of the modified loan documents will be FAXed or sent to KCFO as follows.

USDA/Farm Service Agency
Loan Operations Division
P. O. Box 200003
St. Louis, MO 63120.

States 01 through 32 shall FAX to 314-539-3111.
States 33 through 64 shall FAX to 314-539-6447.--*

230 Servicing of Loans Covered by FSA-1980-64 (7 CFR 762.150) (Continued)***--E Capitalization of Interest on Loans With IA**

If the loan amount, after capitalization of interest, exceeds the original IA loan amount, the Agency Official will complete the following.

New Loan Document	Action
FSA-1940-3	<p>Enter the amount that exceeds the original IA loan amount in item 4.</p> <p>In item 5, ENTER “This loan has been restructured and interest has been capitalized. The amount in item 4 exceeds the original IA loan amount. The requested term of IA is ____ years.”</p> <p>The number of years will correspond with the effective beginning and ending dates shown on the new FSA-1980-64, Part B, items 1(a) and 1(b).</p>
FSA-1980-64	<p>Enter the following:</p> <ul style="list-style-type: none"> • date the loan was restructured in Part A, item 6 • amount that exceeds the original IA loan amount in Part A, item 7 • new effective beginning and ending dates in Part B, items 1(a) and 1(b).

Note: The effective:

- beginning date must be equal to or subsequent to the date the loan was restructured
- ending date must be equal to or before the ending date of the original IA term.--*

230 Servicing of Loans Covered by FSA-1980-64 (7 CFR 762.150) (Continued)***--E Capitalization of Interest on Loans With IA (Continued)**

If the loan amount, after capitalization of interest, exceeds the original IA loan amount **and** the term of the original IA agreement is being extended, the Agency Official will complete the following.

Loan Document	Action
New FSA-1940-3	<p>Enter the amount that exceeds the original IA loan amount in item 4.</p> <p>In item 5, ENTER “This loan has been restructured and interest has been capitalized. The amount in item 4 exceeds the original IA loan amount. The requested term of IA is ____ years.”</p> <p>The number of years will correspond with the effective beginning and ending dates shown in the new FSA-1980-64, Part B, items 1(a) and 1(b).</p>
Original FSA-1940-3	<p>In item 5, ENTER “This loan has been restructured. The term of the IA is being modified from __ years to __ years.”</p> <p>Modify the GLS Obligation Input Screen to indicate the correct IA term.</p>
Original FmHA 1940-3, FSA-1940-3, or RD 1940-3	If the loan was not obligated in GLS, modify the IA term in item 19.
New FSA-1980-64	<p>Enter the following:</p> <ul style="list-style-type: none"> • date the loan was restructured in Part A, item 6 • amount that exceeds the original IA loan amount in Part A, item 7 • new effective beginning and ending dates in Part B, items 1(a) and 1(b).
FSA’s copy of original FSA-1980-64	Strike through the original ending date and enter the new effective ending date as applicable. The lender, borrower, and FSA shall initial the changes.

Notes: The effective beginning date on the original FSA-1980-64 will not be changed. The effective ending date must reflect the “corrected” ending date as indicated on the new FSA-1980-64. The effective ending date must be equal to or before the restructured loan maturity date and cannot be greater than 10 years from the effective date of the borrower’s first FSA-1980-64 unless exception authority has been granted according to paragraph 232.--*

230 Servicing of Loans Covered by FSA-1980-64 (7 CFR 762.150) (Continued)***--E Capitalization of Interest on Loans With IA (Continued)**

Copies of the original and new FSA-1940-3 and FSA-1980-64, as applicable, will be FAXed or sent to KCFO as follows.

USDA/Farm Service Agency
Loan Operations Division
P.O. Box 200003
St. Louis, MO 63120.

States 01 through 32 shall FAX to 314-539-3111.
States 33 through 64 shall FAX to 314-539-6447.

The lender may submit either:

- one FSA-1980-24 at the annual review date if sufficient documentation is provided by the lender for the Authorized Agency Official to verify the loan balances
- a FSA-1980-24 for the period from the previous FSA-1980-24 to the date of the restructuring and submit a second FSA-1980-24 from the date of the restructuring to the annual review date.

Note: Both FSA-1980-24's will be submitted for payment at the annual review date.

F Other Requirements

The rescheduling of a loan with IA must meet all the conditions described in this paragraph and Part 12.--*

230 Servicing of Loans Covered by FSA-1980-64 (7 CFR 762.150) (Continued)**G Reorganization Bankruptcy**

In cases where the interest on a loan covered by an interest assistance agreement is reduced by court order in a reorganization plan under the bankruptcy code, the interest assistance agreement will be terminated effective on the date of the court ordered interest reduction. The lender will file a claim due through the effective date of the court ordered interest reduction. Guaranteed loans which have had their interest reduced by bankruptcy court order are not eligible to receive interest assistance.

H Repurchase From Holder

For Loan Guarantees held by holders, Agency purchase of the guaranteed portion of a loan will stop interest assistance payments on that portion. Interest assistance payments will cease upon termination of the Loan Guarantee, upon reaching the expiration date set forth in the agreement or upon cancellation by the Agency.

I Requesting IA for Delinquent Accounts

When a borrower defaults on a loan, interest assistance may be considered in conjunction with a rescheduling action in accordance with § 762.145 (b). After the meeting required by § 762.143 (b)(3) and consideration of actions to correct the delinquency, the lender will notify the Agency of the results of the meeting. If the restructuring proposal includes interest assistance, the lender will provide the items required by paragraph (d) of this section in addition to those items required by § 762.145. Liquidation must not be initiated, except in accordance with § 762.143 (b)(3)(v).

J Adjustment of Assistance Between Review Dates

After the initial or renewal request for interest assistance is processed, no adjustments can be made until the next review or adjustment date except when necessary to service the loan with a rescheduling or deferral.

230 Servicing of Loans Covered by FSA-1980-64 (7 CFR 762.150) (Continued)**K Excessive IA**

Upon written notice to the lender, borrower, and any holder, the Agency may amend or cancel the interest assistance agreement and collect from the lender any amount of interest assistance granted which resulted from incomplete or inaccurate information, an error in computation, or any other reason which resulted in payment that the lender was not entitled to receive.

L Substitution of Lenders

If there is a substitution of lender, a claim for the first lender's interest assistance, through the effective date of the substitution, will be submitted by the first lender and processed at the time of the substitution.

- IA will continue automatically through the review date.
- The new lender must:
 - request the remaining IA for that period
 - document the need for continued IA within 60 calendar days after the review date.

231 Cancellation of FSA-1980-64 (7 CFR 762.150(h))**A Condition for Cancellation**

The Interest Assistance Agreement is incontestable except for fraud or misrepresentation, of which the lender and borrower have actual knowledge at the time that the interest assistance agreement is executed, or which the lender or borrower participates in or condones.

If FSA determines that the lender or borrower fraudulently completed FSA-1980-64 or misrepresented information on FSA-1980-64 or supporting documentation, FSA shall cancel FSA-1980-64 and collect any subsidy that has been paid up to the point this fraud was discovered.

232 Exceptions to IA Requirements (7 CFR 762.150(k))**A Exceptions**

The Deputy Administrator for Farm Loan Programs has the authority to grant an exception to any requirement involving interest assistance, if it is in the best interest of the Government.

DAFLP has the authority to make exceptions to the rules regarding IA. Exceptions will only be made on a case-by-case basis where the proposed exception is in the best interest of FSA, the lender, and the loan applicant.

DAFLP's decision on granting exceptions is final and not appealable. SED's should evaluate all requests for exceptions, and forward them to DAFLP with their analysis of the benefits or problems, and a recommendation for their approval or rejection. No exception will be granted without an analysis and documentation of why such an exception is in the Government's best interest.

233-243 (Reserved)

Part 10 Processing Approvals and Issuing the Guarantee**244 Loan Approval****A Loan Limits**

The maximum FO or OL levels outlined in this subparagraph include the guaranteed loan being made plus any outstanding direct or guaranteed principal balances, as indicated, owed by anyone who will sign the promissory note.

The total outstanding combined guaranteed FO and OL principal balance cannot exceed *--\$782,000.

The total outstanding direct and guaranteed FO principal balance cannot exceed \$782,000.

The total outstanding direct and guaranteed OL principal balance cannot exceed \$782,000.

The total combined outstanding direct and guaranteed FO and OL balance cannot exceed \$982,000.

The total combined outstanding direct and guaranteed FO, OL, and EM balance cannot exceed \$1,482,000.--*

Note: The dollar limit of guaranteed loans is adjusted annually based on the percentage change in the Prices Paid by Farmers Index, as compiled by USDA.

FSA personnel should refer to 1-FLP for information on loan approval authorities.

244 Loan Approval * * * (Continued)**B Submitting RD-1940-3 to the Loan Approval Official**

When the loan exceeds the Authorized Agency Official's approval authority, the Authorized Agency Official should send the approval official any information the approval official needs to evaluate the loan request, including the following:

- a completed RD-1940-3
- the loan approval screens from the appropriate automated system
- FSA-1980-25 for SEL and CLP loan applicants or FSA-1980-28 for PLP loan applicants
- FSA-1980-15 with recommended changes
- the balance sheet and cash flow statement (for SEL applicants)
- the loan narrative
- any other information the approval official requests.

Once the loan approval official executes RD-1940-3, the Authorized Agency Official may then proceed to execute all other loan-related documents, unless otherwise specified by the loan approval official.

C Lender Notification of Authorized Agency Official Decision

The lender should be informed of the approval decision in writing.

- If the application is approved and funds are available, the Authorized Agency Official *--shall prepare a letter to the lender (subparagraph D) and FSA-1980-15 and proceed to--* paragraph 245.
- If the application is approved and funds are not available, the Authorized Agency Official shall prepare a letter (subparagraph E) to the lender with a copy to the applicant, informing them the loan is approved, subject to the allocation of funding. This letter should inform the lender that funding is being requested and the loan should not be closed until they receive FSA-1980-15, agree to the conditions, and execute the document.
- If the application is rejected, the Authorized Agency Official shall prepare a letter to the lender with a copy to the applicant informing them the loan is rejected, the reasons for rejection, and their right to appeal the decision as outlined in 1-APP.

244 Loan Approval * * * (Continued)**D Example of Approval Letter When Funds Are Available**

The following is an example of an approval letter when funds are available.

<div>Date: _____</div> <div>Dear _____:</div> <div><p>This letter is to certify that your application on behalf of (insert name of borrower/applicant) for Farm Service Agency loan guarantee assistance has been approved and funds have been obligated.</p><p>Enclosed is for FSA-1980-15 (Conditional Commitment) specifying the conditions you must meet to secure the guarantee. Please review these conditions, complete Part D of the form (Acceptance or Rejection of Conditions), and return it to this office by (insert date).</p><p>If you have any questions, please contact this office.</p><p>Sincerely,</p><p>_____ (Title)</p></div>

244 Loan Approval * * * (Continued)**E Example of Approval Letter When Funds Are Not Available**

The following is an example of an approval letter when funds are not available.

<div>Date: _____</div> <div>Dear _____:</div> <div><p>This letter is to certify that your application on behalf of <i>(insert name of borrower/applicant)</i> for Farm Service Agency (FSA) loan guarantee assistance has been approved. However, funds are not available at this time to obligate the loan.</p><p>The loan will be placed on a waiting list based on the date the application was complete. If a substantial amount of time elapses before the loan is obligated, we may ask you to provide updated information. You should not close the loan until you receive an FSA 1980-15 (Conditional Commitment) indicating that the loan has been funded.</p><p>We appreciate your patience and understanding. If you have any questions, please contact this office.</p><div>Sincerely,</div><div>_____ (Title)</div></div>
--

245 Agency Obligation of the Loan (7 CFR 762.130)**A Loan Obligation**

Loans are approved subject to the availability of funding. When it appears that there are not adequate funds to meet the needs of all approved loan applicants, applications that have been approved will be placed on a preference list according to the date of receipt of a complete application.

After the loan approval official executes RD-1940-3, it must be transmitted to SED for consideration of funding. SED may obligate funds or authorize the Authorized Agency Official to obligate funds. The Authorized Agency Official must review the automated system the following workday to determine whether the loan received a funding obligation. If the system indicates funds have been obligated for the loan, the Authorized Agency Official may proceed under subparagraph C and issue FSA-1980-15. If the system indicates that sufficient funds are not available, the Authorized Agency Official must proceed under subparagraph B and place the loan on the waiting list until sufficient funds are available for obligation.

FSA-1980-15 must never be executed until verification is received that funds have been obligated for the loan by the Finance Office.

Note: If a PLP lender receives an automatic approval of a loan because of FSA's failure to meet the 14-calendar-day response deadline, the lender may not close the loan until the Finance Office obligates funds and the lender receives FSA-1980-15.

B Funding Priorities

If the automated system indicates that funds are not available to obligate a loan, the Authorized Agency Official shall:

- not execute FSA-1980-15
- inform the lender that funds are not currently available
- place the loan on a waiting list based on the date the application was considered complete.

245 Agency Obligation of the Loan (7 CFR 762.130) (Continued)**B Funding Priorities (Continued)**

If approved applications have been received on the same day, the following will be given priority:

- **an application from a veteran**
- **an application from an Agency direct loan borrower**
- **an application from a loan applicant who is described by 1 of the following:**
 - **has a dependent family**
 - **is an owner of livestock and farm implements necessary to successfully carry out farming operations**
 - **is able to make down payments**
- **any other approved application.**

The priority list will be maintained at the level where the funds have been allocated or suballocated.

When funds become available, applications will be funded in priority list order. If a substantial amount of time has elapsed between loan approval and obligation, the Authorized Agency Official may request updated information on the loan applicant.

245 Agency Obligation of the Loan (7 CFR 762.130) (Continued)

C Issuing FSA-1980-15

After receiving confirmation from the automated system that funds have been obligated for the loan, the Authorized Agency Official may execute FSA-1980-15. Since FSA-1980-15 will be used by FSA in the event of a loss claim to determine the responsibilities of the lender, the Authorized Agency Official should give careful attention to its completion.

- **Loan Purposes.** The Authorized Agency Official should ensure that the specific purposes for which the loan funds will be used are detailed on FSA-1980-15. These *-purposes must be consistent with the purposes shown on FSA-1980-25 or FSA-1980-28 and any agreed modifications.
- **Security for the Loan.** The Authorized Agency Official should ensure that additional security items not listed on FSA-1980-25 and FSA-1980-28, but required by the Agency, are included on FSA-1980-15.
- **Electronic Applications.** If the lender submitted FSA-1980-25 or FSA-1980-28 electronically, then FSA-1980-15, item 17 should specify that the original, signed copy of the application be submitted with the loan closing documents.--*

In developing FSA-1980-15, the Authorized Agency Official shall tailor FSA-1980-15 to the specific borrower. Long lists of standard conditions developed for all borrowers should not be used. Each condition placed on the loan must be appropriate to the specific lending situation and produce a higher quality loan.

Issuing FSA-1980-15 with conditions is preferred to rejection of the request.

Example: If the security proposed by the lender will result in an inadequately secured loan, rather than deny the guarantee request, FSA-1980-15 may be executed, subject to the lender obtaining a lien on specified additional collateral.

Once FSA-1980-15 has been developed using the guidelines in this paragraph, the Authorized Agency Official shall submit FSA-1980-15 to the lender for execution according to paragraph 246.

246 Lender's Response to FSA-1980-15 (7 CFR 762.130(c))**A Accepting or Rejecting Conditions**

The lender must meet all of the conditions specified in the FSA-1980-15 to secure final Agency approval of the guarantee. The lender, after reviewing the conditions listed on the FSA-1980-15, will complete, execute, and return the form to the Agency. If the conditions are not acceptable to the lender, the Agency may agree to alternatives or inform the lender and the loan applicant of their appeal rights.

*--When the lender receives FSA-1980-15, the lender should carefully review all the conditions. If the lender accepts all of the conditions, the lender should complete, sign, and return FSA-1980-15 to the Authorized Agency Official.

If the lender rejects the conditions, the lender may propose new conditions, along with justification for them. The Authorized Agency Official should review the new conditions--* and the lender's justification to determine whether they are acceptable to FSA. If the conditions cannot be accepted, the Authorized Agency Official should contact the lender to see if an agreement can be reached that is acceptable to both parties. If the new conditions are accepted or an agreement is reached, the conditions must then be reviewed and approved by the loan approval official before their incorporation in FSA-1980-15.

If, after all reasonable efforts have been made, an agreement cannot be reached, the Authorized Agency Official shall issue a rejection letter and inform the lender of its appeal rights according to 1-APP. Only after completion of the appeal may the Authorized Agency Official proceed with deobligation of funding in paragraph 250.

If a PLP lender rejects an 80 percent guarantee, received as a result of FSA not acting on a request within 14 calendar days, the Authorized Agency Official shall continue to process the request and issue a revised FSA-1980-15. If warranted, the revised FSA-1980-15 may contain conditions. The lender will have the option of accepting the 80 percent guarantee without conditions or come to an agreement with FSA on any conditions in the revised FSA-1980-15, and receive the requested level of guarantee.

246 Lender's Response to FSA-1980-15 (7 CFR 762.130(c)) (Continued)**B Executing and Extending FSA-1980-15**

Once the lender executes FSA-1980-15, it must be returned to FSA for final processing. Once both parties execute the document, the lender may proceed to close the loan within the timeframe allotted in FSA-1980-15. If an extension is needed, the Authorized Agency Official may grant an extension in writing to the lender. Before issuing an extension, the Authorized Agency Official should consider whether enough time has passed that would justify updated financial information or an updated application.

The Authorized Agency Official should track the expiration date of FSA-1980-15. If the lender fails to contact the Authorized Agency Official before the expiration of FSA-1980-15, the Authorized Agency Official should contact the lender about the status of the loan.

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130)**A Lender's Actions**

After loan closing, the lender must submit the following to FSA before issuing FSA-1980-27:

- FSA-1980-22

Note: The lender will certify as to the following on the form:

- no major changes have been made in the lender's loan or line of credit conditions and requirements since submission of the application (except those approved in the interim by the Agency in writing)
- required hazard, flood, crop, worker's compensation, and personal life insurance (when required) are in effect
- truth in lending requirements have been met
- all equal employment opportunity and nondiscrimination requirements have been or will be met at the appropriate time

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- the loan or line of credit has been properly closed, and the required security instruments have been obtained, or will be obtained, on any acquired property that cannot be covered initially under State law
- the borrower has marketable title to the collateral owned by the borrower, subject to the instrument securing the loan or line of credit to be guaranteed and subject to any other exceptions approved in writing by the Agency

Note: When required, an assignment on all USDA crop and livestock program payments has been obtained.

- when required, personal, joint operation, partnership, or corporate guarantees have been obtained
- liens have been perfected and priorities are consistent with requirements of the conditional commitment
- loan proceeds have been, or will be disbursed for purposes and in amounts consistent with the conditional commitment and as specified on the loan application

Note: In line of credit cases, if any advances have occurred, advances have been disbursed for purposes and in amounts consistent with the conditional commitment and line of credit agreements.

- there has been no material adverse change in the borrower's condition, financial or otherwise, since submission of the application
- all other requirements specified in the conditional commitment have been met.

- RD-1980-19

Note: The lender must complete an Agency closing report form and return it to the Agency.

- *--a completed FSA-1980-25 or FSA-1980-28 with appropriate signatures if the lender submitted the application electronically--*

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- an acceptable appraisal from SEL's, if the guarantee was approved, subject to an appraisal

Note: SEL's should be encouraged to submit this appraisal to FSA before loan closing to ensure compliance with FSA requirements.

- FSA-1980-38

Note: The lender must execute the Agency's lender's agreement and deliver it to the Agency. If a current FSA-1980-38 is not on file with FSA, then one must be executed before issuance of FSA-1980-27.

- guarantee fee

Notes: A guarantee fee will be charged on all loans unless otherwise stated in this paragraph. **Guarantee fees are 1 percent and are calculated as follows:**

$$\text{Fee} = \text{Loan Amount} \times \% \text{ Guaranteed} \times .01.$$

The nonrefundable fee is paid to the Agency by the lender. The fee may be passed on to the borrower and included in loan funds.

The following guaranteed loan transactions are not charged a fee:

- loans involving interest assistance
- loans where a majority of the funds are used to refinance an Agency direct loan
- *--OL loans to farmers or ranchers involved in the direct beginning farmer downpayment program

Note: The beginning farmer downpayment loan program refers only to a direct FO made under FmHA Instruction 1943-A. Simply being defined as a beginning farmer will not qualify for a waiver of the fee.--*

- loans made under a State beginning farmer program where a memorandum of understanding between the State and USDA has been signed.

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- a copy of the executed promissory note or loan agreement.

Note: The lender will use its own promissory notes, line of credit agreements, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided:

- the forms meet Agency requirements
- documents comply with State law and regulation
- the principal and interest repayment schedules are stated clearly in the notes and are consistent with the conditional commitment

***--Note:** A lender may use notes with short-term maturities for intermediate and long-term loans provided:

- the lender has indicated the intended term of the loan

Note: This may be done by entering the total number of years in the repayment period block of the application form.

- the subsequent note is a continuation of the original intended repayment plan and not a restructuring of a past due account
- there is a clear link between FSA-1980-27 and all the notes intended to be covered by FSA-1980-27. FSA-1980-27 references only the debt instrument used at loan closing. The necessary linkage may be established with a master note, a loan agreement, or by referring in the subsequent notes to the original debt instrument referenced on FSA-1980-27.--*

- the note is executed by the individual liable for the loan

Note: For entities, the note is executed by the member who is authorized to sign for the entity, and by all members of the entity as individuals. Individual liability can be waived by the Agency for members holding less than 10 percent ownership in the entity if the collectability of the loan will not be impaired.

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- **when the loan purpose is to refinance or restructure the lender's own debt, the lender may continue to use the existing debt instrument and attach an allonge that modifies the terms of the original note.**

In addition, the lender should take the following actions.

- Inform FSA of the lender's plans to market the loan to the secondary market. These plans must be consistent with Part 15. LOC's may be funded in participation with other lenders, but may not be sold into the secondary market.
- **The lender must notify the Agency of any scheduled inspections during construction and after the guarantee has been issued. The Agency may attend these field inspections. Any inspections or review performed by the Agency, including those with the lender, are for the benefit of the Agency only. Agency inspections do not relieve any other parties of their inspection responsibilities, nor can these parties rely on Agency inspections in any manner.**

B FSA Actions

Once FSA receives the information from the lender detailed in subparagraph A, the Authorized Agency Official must take the following actions before executing FSA-1980-27 to guarantee the loan.

- Review FSA-1980-15 to ensure that the loan closed according to the agreed conditions.
- Review the executed loan agreement and the promissory notes and compare with FSA-1980-15 to ensure consistency with the agreed upon terms and personal liability of entity members.
- Review the lender's proposed marketing plans to the secondary market. If the lender is proposing to sell the loan or a portion of the loan into the secondary market, documents should be checked to ensure consistency before sale. The Authorized Agency Official should take additional care to review FSA-1980-15, FSA-1980-27, the loan agreement, and the promissory notes to ensure the following:
- the principal amount and interest rate are consistent

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)**B FSA Actions (Continued)**

- the closing date on the note and guarantee are consistent
- *--the borrower's name, lender's name, and FSA contact information are consistent--* on all documents.
- For loans involving construction, review the lender's proposed plans for construction inspections and how they intend to ensure that the project is completed according to agreed upon terms.

248 Issuing FSA-1980-27**A Action**

Once the requirements of paragraph 247 have been met, the Authorized Agency Official may prepare and issue FSA-1980-27. The original FSA-1980-27 should be provided to the lender to be attached to the original note. A conformed copy, or signed and dated photocopy, with copies of the note should be kept by FSA in the loan docket.

B Documents To Be Transmitted to the Finance Office

Once FSA-1980-27 has been issued to the lender, the Authorized Agency Official should process the guarantee fee through the System 36 under the Miscellaneous Code of 30. Refer to 3-FI for additional guidance. The Loan Closing Transaction should be input through the GLS "Add Loan Screen".

249 Deobligation of Loan Funds**A Deobligation of Funds**

Under certain circumstances, the Authorized Agency Official may need to consider a deobligation of loan funds. If the conditions for the loan or LOC cannot be met after completing the appeal process, the Authorized Agency Official must execute FSA-1940-10 to cancel the actual obligation. FSA-1940-10 should be FAXed to the State Office which will process the cancellation or deobligation through GLS.

250 Replacing or Terminating FSA-1980-27 (7 CFR 762.101 and 762.130)**A Replacing FSA-1980-27**

If the guarantee or assignment guarantee agreements are lost, stolen, destroyed, mutilated, or defaced, except where the evidence of debt was or is a bearer instrument, the Agency will issue a replacement to the lender or holder upon receipt of acceptable documentation, including a certificate of loss or an indemnity bond. It is the responsibility of the lender to coordinate the replacement activities with the holder and submit the required documents to SED for processing. SED shall contact the National Office for further guidance when replacing FSA-1980-27.

B Terminating FSA-1980-27

The Loan Guarantee will automatically terminate as follows:

- **upon full payment of the guaranteed loan**

Note: A zero balance within the period authorized for advances on a line of credit will not terminate the guarantee.

- **upon payment of a final loss claim**
- **upon written notice from the lender to the Agency that a guarantee is no longer desired provided the lender holds all of the guaranteed portion of the loan. The Loan Guarantee will be returned to the Agency office for cancellation within 30 days of the date of the notice by the lender.**

251-261 (Reserved)

Section 2 General Servicing Actions

278 Subordination of Guaranteed Loan Security (7 CFR 762.142)

A Overview

Subordination of guaranteed loan security. **The lender may not subordinate its interest in property which secures a guaranteed loan except** either of the following:

- **the lender may subordinate its security interest in crops, feeder livestock, livestock offspring, or livestock products when no funds have been advanced from the guaranteed loan for their production, so a lender can make a loan for annual production expenses**
- **the Agency's National Office may provide an exception to the subordination prohibition if such action is in the Agency's best interest.**

However, in no case can the loan made under the subordination include tax exempt financing.

B Lender Request for Subordination of Guaranteed Loan Security

The local Authorized Agency Official may approve a lender's request to subordinate crops, feeder livestock, livestock offspring, milk, produce, and other normal income security that were not produced through advances made under the guaranteed loan, to allow a borrower to obtain unguaranteed annual operating credit. Multi-year assignments of FSA program payments will not be subordinated. However, in those cases where normal income security is being subordinated so another lender can make a loan for annual production expenses, any

--amount that exceeds the guaranteed loan payment for that year may be released.--

278 Subordination of Guaranteed Loan Security (7 CFR 762.142) (Continued)**B Lender Request for Subordination of Guaranteed Loan Security (Continued)**

FSA discourages subordination of real estate, equipment, and other basic security and will not provide regulatory approval authority at levels lower than DAFLP. If a request is received that SED feels is in the best interest of the Government and the borrower, it can be forwarded to the National Office for final consideration. Subordinations will not be approved simply to allow the operation to expand, or to allow a lender to secure an operating loan with basic security. The request should contain:

- a description of the transaction including the use of the funds to be obtained through the subordination
- explanation of the borrower's cash flow before and after the proposed subordination documenting the improvement to be attained
- certification that the guaranteed loan will still be secured after the subordination based on a current appraisal

***--Note:** If the subordination request is to refinance existing real estate debt and no additional funds are provided, an appraisal is not required.--*

- an explanation of how the subordination is necessary to keep the borrower in business, or otherwise how the Government will benefit from the subordination, other than through conservation of loan funds.

Agency refusal to grant an exception to published regulations is not appealable.

279 Subordination of Direct Loan Security (7 CFR 762.142(c))**A Direct Loan Subordination When Guaranteed Loan Is Being Made**

The Agency may subordinate its security interest on a direct loan when a guaranteed loan is being made if, as appropriate, the requirements of the regulations § 1962.30 of FmHA Instruction 1962-A of this chapter and § 1965.12 of FmHA Instruction 1965-A governing Agency direct loan subordinations are met and only in the following circumstances:

- **to permit a guaranteed lender to advance funds and perfect a security interest in crops, feeder livestock, livestock offspring, or livestock products, such as milk, eggs, wool, etc.**
- **when the lender requesting the guarantee needs the subordination of the Agency's lien position to maintain its lien position when servicing or restructuring**
- **when the lender requesting the guarantee is refinancing the debt of another lender and the Agency's position on real estate security will not be adversely affected**
- **to permit a Line of Credit to be advanced for annual operating expenses.**

B Direct Loan Subordination to Secure LOC

The Agency may subordinate its basic security in a direct loan to permit guaranteed line of credit only when both of the following additional conditions are met.

- **The total unpaid balance of the direct loans is less than or equal to 75 percent of the value of all of the security for the direct loans, excluding the value of growing crops or planned production, at the time of the subordination. The direct loan security value will be determined by an appraisal. The lender requesting the subordination and guarantee is responsible for providing the appraisal and may charge the applicant a reasonable appraisal fee.**
- **The applicant cannot obtain sufficient credit through a conventional guaranteed loan without a subordination.** Before approving a combination guaranteed loan and subordination, the local loan approval official will document that the applicant requested a Contract of Guarantee - LOC through at least 1 participating lender. If the local loan approval official has information available that supports a conclusion that credit is not available without a subordination, documentation in the case file will be sufficient to verify that other credit is not available.

280 Partial Releases (7 CFR 762.142(b))**A Overview**

A partial release is the release of a portion of security used as collateral for a loan.

B Lender Request for Partial Release

A lender may release guaranteed loan security without FSA concurrence as follows:

- **when the security item is being sold for market value and the proceeds will be applied to the loan in accordance with lien priorities**

Note: In the case of term loans, proceeds will be applied as extra payments and not
*--as a regular installment on the loan. Security will not be released for the
purposes of providing collateral for another loan.--*

- **the security item will be used as a trade-in or source of down payment funds for a like item that will be taken as security**

Note: Agency input may be requested when there is a question of whether a reasonable value is being obtained for the security.

- **the security item has no present or prospective value.**

Note: Older security items that are now junk or obsolete may be left off of the security agreement when it is updated. Regardless, proceeds from the sale of such items as scrap or salvage should be applied to the loan as an extra payment.

A partial release of security may be approved in writing by the Agency upon the lender's request when:

- **proceeds will be used to make improvements to real estate that increase the value of the security by an amount equal to or greater than the value of the security being released**

Example: A borrower may sell a parcel of real estate to provide funds for construction of a dwelling.

280 Partial Releases (7 CFR 762.142(b)) (Continued)

B Lender Request for Partial Release (Continued)

- **--security, other than significant income generating property, will be released outright,--* with no consideration, but the total unpaid balance of the guaranteed loan is less than or equal to 75 percent of the value of the security for the loan after the release, excluding the value of growing crops or planned production, based on a current appraisal of the security**
- **significant income generating property will not be released unless it is being replaced, and business assets will not be released for use as a gift or any similar purpose**

Note: The release must serve a purpose other than to simply allow a borrower to obtain clear title to security items. Cropland, significant machinery, and business assets will not be released, unless it is being replaced, proceeds are being used for authorized loan purposes, or the borrower's cash flow or security position is being improved.

- **Agency concurrence is provided in writing to a lender's written request.**

Note: Standard eligible lenders and CLP lenders will submit the following to the Agency:

- **a current balance sheet on the borrower**
- **a current appraisal of the security**

Note: Unless specifically requested by the Agency, the lender will not be required to provide an appraisal of any real estate security being released. **Based on the level of risk and estimated equity involved, the Agency shall determine what security needs to be appraised. Any required security appraisals must meet the requirements of § 762.127.**

- **a description of the purpose for the release**
- **any other information requested by the Agency to evaluate the proposed servicing action.**

280 Partial Releases (7 CFR 762.142(b)) (Continued)**C FSA Response to Request for Partial Release**

Written consent of any prior or junior lien holder must be obtained and delivered to FSA if any proceeds are not applied according to lien priority.

A partial release will not be allowed if it would result in the borrower being released from loan liability.

D Reviewing Requests for Partial Releases

FSA shall review and approve or reject the request and notify SEL within 30 calendar days, and CLP and PLP lenders within 14 calendar days, from receipt of a complete request for servicing.

When reviewing a lender's request for a partial release, the Authorized Agency Official should carefully consider any partial release intended as a gift. In all instances, the Authorized Agency Official should assess whether or not the release of land will affect the overall value of the remaining security. In addition, the Authorized Agency Official shall determine whether an appraisal of security is necessary based on risk and perceived equity involved in the release. If there is a question on the value of the security, the Authorized Agency Official should request an appraisal. The appraisal must be paid for by the lender or borrower and meet the requirements of Part 8, Section 4, Subsection 3.

The lender will provide the Agency copies of any agreements executed to carry out the servicing action. PLP lenders will request servicing approval in accordance with their
***--agreement with the Agency at the time of PLP status certification.** Approval of requests forwarded to DAFLP for special consideration may be delayed beyond 30 calendar days.--*

281 Transfers and Assumptions (7 CFR 762.142(d))**A Overview**

A transfer and assumption is an action whereby a new, eligible guaranteed loan applicant assumes an existing guaranteed loan. The transfer and assumption process is very similar to the application and approval of a new loan.

B Lender Request for a Transfer and Assumption

For standard eligible and CLP lenders, the servicing action must be approved by the Agency in writing. For standard eligible and CLP lenders, the transferee must apply for a loan in accordance with § 762.110 (Part 5), including a current appraisal, unless the lien position of the guaranteed loan will not change, and any other information requested by the Agency to evaluate the transfer and assumption.

PLP lenders may process transfers and assumptions in accordance with their agreement with the Agency.

Any required security appraisals must meet the requirements of § 762.127 (Part 8, Section 4, Subsection 3).

Lenders must also submit a request to release the transferor, guarantor, or any third party from liability according to paragraph 285.

C Conditions and Requirements for a Transfer and Assumption

The following limitations apply to transfers and assumptions.

- **The transferee must meet the eligibility requirements and loan limitations for the loan being transferred, all requirements relating to loan rates and terms, loan security, feasibility, and environmental and other laws applicable to a loan applicant under this subpart.**
- **The lender will use its own assumption agreements or conveyance instruments providing they are legally sufficient to obligate the transferee for the total outstanding debt.**

281 Transfers and Assumptions (7 CFR 762.142(d)) (Continued)

C Conditions and Requirements for a Transfer and Assumption (Continued)

* * *

- **The lender must give any holder notice of the transfer. If the rate and terms are changed, written concurrence from the holder is required.**

Additional limitations that apply to transfers and assumptions are as follows:

- the market value of the security being acquired, plus any additional security the transferee proposes to give, must be adequate to secure the balance of the guaranteed loan plus any prior liens
- at the time of the assumption, the indebtedness of the transferee may not exceed the limits outlined in subparagraph 244 A.--***

* * *

D FSA Response to Request for Transfer and Assumption

The Agency will review, approve or reject the request in accordance with the time frames in § 762.130 of this part (Part 6).

- *--The Agency approves the transfer and assumption by executing a modification of the guarantee to designate the party that assumed the guaranteed debt, the amount of the debt at the time of the assumption, including interest that is being capitalized, and any new loan terms, if applicable.**

The Authorized Agency Official will execute FSA-1980-84 and provide it to the lender for attachment to the original FSA-1980-27.--*

The Agency will agree to releasing the transferor or any guarantor from liability only if the requirements of § 762.146(c) (paragraph 285) are met.

The Authorized Agency Official should treat a request for a transfer as an application for a new guaranteed loan. If all of the program requirements are met the transfer and assumption should be approved by FSA.

- The Authorized Agency Official will attach the assumption agreement to FSA-1980-27 or
--FmHA-449-34. To notify the Finance Office of the assumption, complete and forward FSA-1980-86.--

The lender will provide the Agency copies of any agreements executed to carry out the servicing action.

282 Additional Loans or Advances (7 CFR 762.146(a))**A Additional Loans or Advances**

SEL and CLP lenders must not make additional loans or advances without prior written approval of the Agency, except as provided in the borrower's Loan or Line of Credit Agreement.

The PLP lender may make additional loans or advances in accordance with the lender's agreement with the Agency.

283 Emergency Advances (7 CFR 762.146(a))**A Issuance of an Emergency Advance Under LOC**

In cases of a guaranteed line of credit, lenders may make an emergency advance when a line of credit has reached its ceiling. The emergency advance will be made as an advance under the line and not as a separate note. The lender's loan documents must contain sufficient language to provide that any emergency advance will constitute a debt of the borrower to the lender and be secured by the security instrument. The following conditions apply:

- **the loan funds to be advanced are for authorized operating loan purposes**
- **the financial benefit to the lender and the Government from the advance will exceed the amount of the advance**
- **the loss of crops or livestock is imminent unless the advance is made.**

B Lender Request for an Emergency Advance

SEL's and CLP lenders must obtain written permission from the Authorized Agency Official before an emergency advance on LOC can be made.

Emergency advances are authorized for ongoing operations and may be used for OL's with a *--1-year term, or in any year of LOC. Where liquidation is imminent, advances will be made as protective advances according to Part 14.--*

To request an emergency advance, SEL's and CLP lenders must submit the following to the Authorized Agency Official:

- **a narrative explaining that the loss of crops and/or livestock is imminent and can be prevented by an infusion of cash**

283 Emergency Advances (7 CFR 762.146(a)) (Continued)**B Lender Request for an Emergency Advance (Continued)**

- cash flow projections
- if necessary, a copy of the modified loan note that reflects the additional cash advanced.

PLP lenders may make emergency advances according to their FSA-1980-38.

C FSA Response to Request for Emergency Advance

The Authorized Agency Official:

- shall review a SEL's and CLP lender's request for an emergency advance and notify the lender of FSA's decision in a timely manner
- should make every effort to respond to a request for an emergency advance within several days of receiving the lender's request.

284 Interest Rate Changes (7 CFR 762.146(d))**A Overview**

The lender may change the interest rate on a performing (nondelinquent) loan only with the borrower's consent.

B Procedures Lender Must Follow to Change Interest Rate

If the loan has been sold on the secondary market, the lender must repurchase the loan or obtain the holder's written consent.

To change a fixed rate of interest to a variable rate of interest or vice versa, the lender and the borrower must execute a legally effective amendment or allonge to the existing note.

If a new note is taken, it will be attached to and refer to the original note.

The lender will inform the Agency of the rate change.

The lender shall inform FSA of the rate change by completing RD-1980-47 and forwarding it to the County Office.

Lenders do not need to seek FSA concurrence to change an interest rate.

285 Release of Liability Upon Withdrawal (7 CFR 762.146(b))**A General Requirements**

An individual who is obligated on a guaranteed loan may be released from liability by a lender with the written consent of the Agency provided the following conditions have been met.

- **The individual to be released has withdrawn from the farming or ranching operation.** The lender must submit a narrative outlining who is to be released and why.
- **A divorce decree and final property settlement does not hold the withdrawing party responsible for the loan payments.** A copy of the divorce decree must be submitted with the lender's request. The lender must document that release of divorced borrowers is a common practice carried out in their nonguaranteed loan portfolio.
- **The withdrawing party's interest in the security is conveyed to the individual or entity with whom the loan will be continued.**
- **The ratio of the amount of debt to the value of the remaining security is less than or equal to .75, or the withdrawing party has no income or assets from which collection can be made.**
- **Withdrawal of the individual does not result in legal dissolution of the entity to which the loans are made. Individually liable members of a general or limited partnership may not be released from liability. Partners, parents, cosigners, stockholders, and entity members may often be released from liability.** However, when the guaranteed loan is made to individuals farming as a partnership, and each partner is fully liable, release of 1 partner would terminate the partnership and the existence of the entity to which the loans were made. The lender must document that release of withdrawing members is common in their unguaranteed portfolio and all other conditions in this paragraph are met.
- **The remaining liable party projects a feasible plan (see § 762.102(b)).** The lender must submit a cash flow projection for the remaining liable party with the request for release. A release will not be approved when a loss is probable.

285 Release of Liability Upon Withdrawal (7 CFR 762.146(b)) (Continued)**B Lender Request for Release of Borrower From Liability Upon Withdrawal**

PLP lenders shall submit documentation to the Authorized Agency Official in support of a release from liability, as specified in FSA-1980-38.

C FSA Actions to a Request for Release of Liability Upon Withdrawal

Upon review of the request, the Authorized Agency Official must forward the request and a recommendation to SED for action. SED shall notify the lender of the decision in a timely manner either by notifying the lender directly or by instructing the County Office to inform the lender of whether the borrower may be released from liability.

D Annual Review of Lender Loan Files in Cases of Release Liability Upon Withdrawal

During the annual FSA lender loan file review, for loans that received a release of liability, the Authorized Agency Official must ensure that the lender proceeded with the release according to the documents provided when seeking FSA approval. In addition, Authorized Agency Officials should ensure that the original loan note has been amended or a new note that is tied to the original has been issued to reflect the release of liability. If anomalies in process or documentation are noted, the Authorized Agency Official should discuss the shortcomings with the lender.

286 Consolidation of Debt (7 CFR 762.146(e))**A Overview**

Only OL may be consolidated.

Existing lines of credit may only be consolidated with a new line of credit if the final maturity date and conditions for advances of the new line of credit are made the same as the existing line of credit. OL loan note guaranteed loans may only be consolidated with other OL loan note guarantees.

The borrower must project a feasible plan after the consolidation. See § 762.102(b) for definition of feasible plan.

Guaranteed OL may not be consolidated with a line of credit, even if the line of credit has been rescheduled.

286 Consolidation of Debt (7 CFR 762.146(e)) (Continued)**A Overview (Continued)**

The combining of outstanding principal and interest balances of 2 or more OL's or LOC's constitutes a consolidation of debt.

The following FSA loans cannot be consolidated:

- FO's
- **OL's or lines of credit secured by real estate**

Note: The statute prohibits consolidation for loans secured by real estate.

- **OL's or lines of credit with outstanding Interest Rate Buydown Agreement, IA Agreement, or SAA**
- non-FSA loans.

The following conditions also apply to consolidation:

- **guaranteed loans made before October 1, 1991, cannot be consolidated with those loans made on or after October 1, 1991**
- when 2 or more OL's or LOC's are consolidated the combined principal and interest must be kept separate; capitalization of interest is not allowed when loans are only being consolidated.

***--Note:** When a loan is consolidated with a loan that was made using FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date, the consolidated debt is eligible for offset.--*

B Request for Consolidation

SEL's must submit a feasible plan to FSA for concurrence before consolidating loans. CLP and PLP lenders may consolidate loans as long as the requirements of this paragraph are met.

286 Consolidation of Debt (7 CFR 762.146(e)) (Continued)

C Lender Actions to Consolidate Loans

A new note or line of credit agreement will be taken. The new note or line of credit agreement must describe the note or line of credit agreement being consolidated and must state that the indebtedness evidenced by the note or line of credit agreement is not satisfied. The original note or line of credit agreement must be retained.

The interest rate for a consolidated OL loan is the negotiated rate agreed upon by the lender and the borrower at the time of the action, subject to the loan limitations for each type of loan.

--The Agency approves the consolidation by executing a modification of guarantee. The modification will indicate the consolidated loan amount, new terms, and percentage of guarantee, and will be attached to the originals of the guarantees being consolidated. If loans with a different guarantee percentage are consolidated, the new guarantee will be at the lowest percentage of guarantee being consolidated.--

Any holders must consent to the consolidation, or the guaranteed portion must be repurchased by the lender.

D FSA Response to Consolidation Request

The Authorized Agency Official must approve of a SEL request for consolidation. When SEL submits a request for a loan consolidation, the Authorized Agency Official should verify the following:

- only OL's and LOC's are being considered for consolidation
- the consolidation does not cause the loan principal to exceed program loan limitations
- the consolidation does not adversely affect the value of the security and the lender's security position.

The Authorized Agency Official must complete RD-1980-19 based on the information received from SEL and submit it to the Finance Office, along with a memorandum describing which loans were consolidated.

If a PLP or CLP lender consolidates loans:

- copies of documents will be obtained
- compliance with regulations will be verified through annual file reviews.

287 Substitution of Lender (7 CFR 762.105)**A Overview**

When a borrower wishes to move their guaranteed loan from 1 lender to another, or a lender wishes to sell a guaranteed loan to another lender, with or without the borrower's consent, FSA must process a substitution of lender.

B Lender Requirements

A new eligible lender may be substituted for the original lender, if the original lender concurs, under the following conditions.

- **The Agency approves of the substitution in writing by executing a modification of the guarantee to identify the new lender, the amount of debt at the time of the substitution and any new loan terms if applicable. The new lender agrees in writing to:**
 - **assume all servicing and other responsibilities of the original lender and to acquire the unguaranteed portion of the loan**
 - **execute a lender's agreement if one is not in effect**
 - **submit a request to the Authorized Agency Official that the new lender be approved as a substitute lender for the loan**
 - **give any holder written notice of the substitution. If the rate and term are changed, written concurrence from the holder or repurchase is required.** The Authorized Agency Official shall review the FSA file and determine if the loan has been sold. If the loan has been sold, the Authorized Agency Official shall remind the lender of special considerations warranted by its sold status.
 - The Authorized Agency Official shall review the borrower and lender's substitution request as follows:
 - determine whether the requirements of this section are met
 - determine whether the new lender possesses the ability to service agricultural loans and, if necessary, discuss the loan with the lender and ensure that they are aware of their responsibilities
 - notify the Finance Office of the substitution by completing and submitting
- *--FSA 1980-42.--*

287 Substitution of Lender (7 CFR 762.105) (Continued)

B Lender Requirements (Continued)

- **The original lender will assign their promissory note, lien instruments, loan agreements, and other documents to the new lender. The guarantee documents will then be assigned to the new lender. The original lender must:**

* * *

- **assign their promissory note, lien instruments, loan agreements, and other documents to the new lender**
- **if the loan is subject to an existing IA Agreement, submit a request for subsidy for the partial year that they have owned the loan**

Note: FSA-1980-64 can then be transferred to the new lender. When a substitution is being processed, Authorized Agency Officials should review the file to determine whether the loan has IA. If so, they should remind the:

- original lender of the need for a subsidy request
- new lender of special servicing requirements of a loan with IA.
- if the original lender does not concur, the substitution cannot take place. If the borrower still wants to move their loan, the new lender may refinance the debt of the original lender.

C Lender Name or Ownership Changes

When a lender begins doing business under a new name or, undergoes an ownership change, the lender will notify the Agency. If the lender simply changes their name and there is no change in ownership, location, or tax ID numbers, the Authorized Agency Official shall:

- submit a request to the Finance Office to change the lender name
- attach a printout of the lender cross-reference screen from GLS with marks to explain the change.

287 Substitution of Lender (7 CFR 762.105) (Continued)

C Lender Name or Ownership Changes (Continued)**The lender's CLP or PLP status is subject to reconsideration when ownership changes.**

If a status lender is merged with or purchased by a nonstatus lender, and the original lender's management, operating policies, CMS, and personnel are changed as a result, the lender's CLP or PLP status should be revoked. If the newly merged or purchased lender will continue to operate the status lender substantially as it has been managed in the past, revocation may

--not be necessary. The nonstatus lender will apply for status or their present status will be revoked. If a lender sells any guaranteed loans in their entirety, SED shall determine-- whether volume requirements of subparagraph 52 D are still being met.

The lender will execute a new Lender's Agreement.

The new lender must provide FSA with:

- its new tax ID number
- a list of all its branches where they will service guaranteed loans, their addresses, and responsible contacts.

Note: An interim request for subsidy payment from the original lender is not required when the entire lender has changed.

FSA 1980-42 must be completed and submitted to the Finance Office. One FSA 1980-42 may be completed with a list of the names, FSA case numbers, and loan numbers for the entire guaranteed loan portfolio of the lender attached.

Although guaranteed lenders are responsible for informing FSA when ownership changes occur, acquiring lenders are often unaware of this responsibility. If the Authorized Agency Official becomes aware that a lender with FSA-guaranteed loans has been purchased by or merged with another lender, the Authorized Agency Official shall contact the new management and remind them of their responsibilities under existing FSA-1980-38's and the need to process a substitution. If Authorized Agency Officials learn that a lender has been closed or placed in receivership by a financial institution regulatory agency, they shall contact their SED for guidance.

288 Servicing SAA's (7 CFR 762.147)**A Overview**

When receiving a debt writedown, a borrower is required to execute FSA-1980-89 that entitles the lender to future payments if the real estate used to secure the written down loan appreciates in value. FSA-1980-89 gives both the lender and FSA the possibility of recapturing money that was written off as a result of a debt writedown.

Before executing FSA-1980-89, the lender must obtain an appraisal of the real estate that is used to secure the written down loan. The appraisal figure will be recorded on FSA-1980-89. * * * The appraisal must be dated within 1 year of FSA-1980-89 execution to be valid.

All servicing requirements apply to all existing SAA's that were entered into before SAA becoming FSA-1980-89. For purposes of this handbook, wherever FSA-1980-89 is referred to, it will also pertain to existing SAA's.

All requirements in this paragraph apply to all lender types, unless otherwise noted.

B Lender Responsibilities When Servicing FSA-1980-89

The lender is responsible for:

- **monitoring the borrower's compliance with the Shared Appreciation Agreement**
- **notifying the borrower of the amount of recapture due**
- **beginning October 1, 1999, a notice of the agreement's provisions not later than 12 months before the end of the agreement**
- **reimbursing the Agency for its pro-rata share of recapture due.**

C Events That Trigger Recapture

Recapture of any appreciation of real estate security will take place at the end of the term of the Agreement, or sooner, if the following occurs:

- **on the conveyance of the real estate security (or a portion thereof) by the borrower**

Note: If only a portion of the real estate is conveyed, recapture will only be triggered against the portion conveyed. Partial releases will be handled in accordance with § 762.141(b) (paragraph 280); and transfer of title to the spouse of the borrower on the death of such borrower, will not be treated as a conveyance under the agreement.

- **on the repayment of the loans**
- **if the borrower ceases farming operations.**

Recapture may also occur in either of the following cases:

- the note FSA-1980-89 is attached to is accelerated
- the borrower dies and there is no spouse to whom the property will be conveyed.

After FSA-1980-89 has been executed, the lender must monitor the borrower's compliance with FSA-1980-89. This includes determining when an event that activates FSA-1980-89 occurs.

When the borrower performs an action that triggers the collection under FSA-1980-89, the lender will obtain an appraisal of the collateral, determine the recapture due, if any, and notify the borrower of the amount due in writing. **Security values will be determined by appraisals obtained by the lender and meeting the requirements listed in 7 CFR 762.127** (paragraphs 181 through 183). The lender will pay for the appraisal or recapture the appraisal expense from the borrower. If the sale of security triggers recapture and the price received for the security is higher than its appraised value, then the sale price will serve as the upper limit when calculating incremental increase in the appreciation of security.

288 Servicing SAA's (7 CFR 762.147) (Continued)**C Events That Trigger Recapture (Continued)**

After recapture, the lender will give FSA its pro-rata share of the proceeds or service the account according to subparagraph F.

To help lenders monitor a borrower's compliance with FSA-1980-89, authorized Agency Officials may encourage lenders to use the letter in subparagraph D to remind the borrower of the FSA-1980-89 commitment.

D Example of Letter Reminding Loan Borrowers of Potential Writedown Recapture

The following is an example of a letter for reminding loan borrowers of potential writedown recapture.

*--

Borrower's Address

Dear (Borrower):

On Month, Day, Year, Name of Lender, wrote down \$_____ of a debt that you owed in connection with a guarantee that was provided by the Farm Service Agency (FSA). In consideration for receiving this writedown, you executed a ___10-year___5-year Shared Appreciation Agreement (Agreement) in connection with the real estate that you pledged as collateral for this loan. We have enclosed a copy of the Agreement for your reference.

This letter is to remind you of the possibility that you may have to repay all or a portion of the amount of your loan that was written down. The Agreement that you signed requires you to repay all or a portion of the debt written down if the real estate that secured the loans increased in value and one of the following occurs:

- ___10 years___5 years have passed since you signed the Agreement;
- Title of the real estate security (or a portion thereof) was conveyed (with certain exceptions);
- The remainder of the loan has been repaid; or
- You have quit farming.

If you believe the value of your property has increased, you will need to consider this potential liability when you make future plans. The amount of repayment cannot exceed the amount written down.

If you would like any additional information on how this Agreement can affect you and what actions you need to take, please contact this office.

Sincerely,

Lender's Representative
Enclosure

--*

288 Servicing SAA's (7 CFR 762.147) (Continued)**E Calculating Recapture**

The amount of recapture will be based on the difference between the value of the security at the time recapture is triggered and the value of the security at the time of write down as shown on the Shared Appreciation Agreement.

- If recapture is triggered within 4 years of the date of the Shared Appreciation Agreement, the lender shall recapture 75 percent of any positive appreciation in the market value of the property securing the loan or line of credit agreement.**
- If recapture is triggered after 4 years from the date of the Shared Appreciation Agreement, the lender shall recapture 50 percent of any positive appreciation in the market value of the property securing the loan or line of credit agreement.**

The amount of recapture will not exceed the amount of writedown shown on the Shared Appreciation Agreement.

288 Servicing SAA's (7 CFR 762.147) (Continued)

F Servicing Recapture Debt

If recapture is triggered under the Shared Appreciation Agreement and the borrower is unable to pay the recapture in a lump sum, the lender may do 1 of the following.

- **Reschedule the recapture debt with the consent of the Agency, provided the lender can document the borrower's ability to make amortized payments on the recapture debt plus pay all other obligations. In such case, the recapture debt will not be covered by the Guarantee.** The lender will send FSA its share of every payment when it's received.
- **Pay the Agency its pro rata share of the recapture due. In such case, the recapture debt of the borrower will be covered by the Guarantee.**

***--Note:** RD-1980-47 will be completed and submitted to the Finance Office to indicate the new maturity date, if applicable, including the amortization period of the recapture. If the guaranteed loan has matured, complete FSA-1980-49 and submit it to the Finance Office indicating that the termination will be reversed and the loan reinstated.--*

- **Service the account in accordance with § 762.149.**

If recapture is triggered, and the borrower is able, but unwilling to pay the recapture in a lump sum, the lender will service the account in accordance with § 762.149.

Any shared appreciation recaptured by the lender will be shared on a pro-rata basis between the lender and the Agency.

All appraisal fees will be paid by the lender. The lender may pass the fee on to the *--borrower. The borrower has 30 calendar days to repay the debt in a lump sum after receiving a notice of the appreciation due to the lender.--*

The Authorized Agency Official shall process recapture payments by completing RD-449-30 and forwarding it with payment to the Finance Office.

288 Servicing SAA's (7 CFR 762.147) (Continued)**G Basis for the Amount of Recapture**

Because of 2 consecutive years of drought that destroyed crops, a farmer and lender devised a restructuring plan where \$200,000 of remaining debt was written down to \$100,000 and FSA-1980-89 was executed. FO had been guaranteed by FSA at 90 percent. An appraisal at the time of the writedown valued the farmer's security at \$75,000.

One year later the farmer sells his farm for \$85,000. The Basis for the Amount of Recapture is equal to:

Value of real estate security (appraisal or sale price, whichever one is higher) at the time of a recapture triggering event minus value of real estate security when FSA-1980-89 was executed.

Basis for the Amount of Recapture: $\$85,000 - \$75,000 = \$10,000$.

Since Basis for the Amount of Recapture is positive, the borrower will be required to pay the lender a percentage of the recaptured monies. The percentage to be paid to the lender within the first 4 years of FSA-1980-89 execution is 75 percent (the percentage drops to 50 percent 4 years after FSA-1980-89 execution). Therefore, the farmer owes his lender the following:

$\$10,000 \times 75\% = \$7,500$ due the lender.

FSA is entitled to the portion of the shared appreciation equal to the rate of the guarantee on the loan. Therefore, in this case, FSA's pro-rata share is equal to:

$\$7,500 \times 90\% = \$6,750$ due FSA.

At least annually, the Authorized Agency Official will contact all lenders with active FSA-1980-89's to determine whether any FSA-1980-89 monies have been collected. To help lenders in their FSA-1980-89 monitoring responsibilities, a copy of the letter in subparagraph H may be used by FSA employees when performing this annual lender contact.

288 Servicing SAA's (7 CFR 762.147) (Continued)

H Example of Servicing Recapture Debt Reminder Letter

This is an example of a letter for reminding lenders of guaranteed loan accounts that received a writedown.

*--

Lender's Address

Dear (Lender's Representative or Sir/Madam):

Our records indicate that the Farm Service Agency (FSA), paid your institution \$ ____ on Month, Day, Year, to reimburse it for the guaranteed portion of a \$ ____ loss that you suffered by writing down the account of your borrower Borrower's Name. This letter is to remind you that the borrower signed a Shared Appreciation Agreement (SAA) in connection with this writedown and you are obligated to monitor that agreement. We have enclosed a copy of SAA for your reference and provided you with a letter that you may use to remind your borrower of the potential for recapture under SAA.

SAA requires the borrower to repay all or a portion of the debt written down as a result of an increase in value of the real estate that secured the loans written down. This recapture is triggered by any of the following events:

- ____10 years ____5 years have passed since the borrower executed SAA;
- Title to the real estate security (or a portion thereof) was conveyed by the borrower to someone other than the borrower's spouse upon the death of the borrower;
- The loans have been repaid; and
- The borrower quits farming.

Please review your records, consult with the borrower, review land records, or take other actions to determine whether any of the triggering actions have occurred in this case. If so, you should inform the borrower of the amount that they owe your institution under the terms of their agreement. If SAA has not been triggered, you may still wish to remind the borrower of the terms of this agreement, to allow sufficient time for them to plan for this possibility. You are responsible for obtaining any appraisals necessary to document the amount of appreciation; however, you may pass the expense to the borrower.

I sincerely appreciate your efforts to meet the credit needs of the farmers in our area. If you would like any additional information or assistance on this subject, please contact this office.

Sincerely,

Loan Servicing Official
Enclosure

--*

288 Servicing SAA's (7 CFR 762.147) (Continued)**I FSA Monitoring of FSA-1980-89**

If an FSA employee suspects a recapture triggering event has occurred, and the lender has not taken action, the Authorized Agency Official should discuss appropriate servicing actions with the lender.

Beginning October 1, 1999, the lender must provide a borrower notice of the agreement's provisions not later than 12 months before the end. The Authorized Agency Official must send a note to lenders reminding them of FSA-1980-89 and their responsibilities at the time of recapture triggering.

289-299 (Reserved)

Section 2 Restructuring Requirements for Guaranteed Loans

312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145)

A General Requirements

For any restructuring action, the following conditions apply.

- **The borrower meets the eligibility criteria of § 762.120, except the provisions regarding prior debt forgiveness and delinquency on a Federal debt do not apply.**

***--Note:** When a lender submits a request for FSA concurrence with a restructuring action, the Authorized Agency Official will review the borrower's eligibility for the loan. However, the eligibility provisions of subparagraphs 108 C and D do not apply to the restructuring of existing loans.

- **The borrower's ability to make the amended payment is documented by the following:** (SEL and CLP lender only; PLP lender shall see the lender's agreement)

- **a feasible plan (see section 762.102(b))**

Note: If interest assistance is required to achieve a feasible plan, the items required by Sec. 762.150(d) must be submitted with a restructuring request.

- **current financial statements from all liable parties**
- **verification of nonfarm income**
- **verification of all debts of \$1,000 or more**
- **applicable credit reports**
- **financial history (and production history for standard eligible lenders) for the past 3 years to support the cash flow projections.--***
- **A final loss claim may be reduced, adjusted, or rejected as a result of negligent servicing after the concurrence with a restructuring action under this section.**
- **Balloon payments are prohibited; however, the loan can be restructured with unequal installments, provided that, in addition to a feasible plan for the upcoming operating cycle, a feasible plan can be reasonably projected after the installments increase without further restructuring. Feasible plan is defined in § 762.102(b).**

312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145) (Continued)

A General Requirements (Continued)

- If a borrower is current on a loan, but will be unable to make a payment, a restructuring proposal may be submitted prior to the payment coming due.
- The lender may capitalize the outstanding interest. See subparagraph 326 D.
- The lender's security position will not be adversely affected because of the restructuring. New security instruments may be taken if needed, but a loan does not have to be fully secured in order to be restructured.

Note: If the lender takes additional security as part of the loan restructuring, a list of the new security items and their estimated values should be forwarded to the Authorized Agency Official along with all other restructuring materials according to paragraph 313.

- Any holder agrees in writing to any changes in the original loan terms, including the approval of interest assistance. If the holder does not agree, the lender must repurchase the loan from the holder for any loan restructuring to occur.

All lenders will submit copies of any restructured notes or lines of credit to the Agency.

--If a co-borrower or co-signer is required to execute a note in conjunction with a restructuring, the lender must provide the name, Social Security number, and current address of the co-borrower or co-signer to the Agency.--

313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145)

A SEL Request for Restructuring

Standard eligible lenders must obtain prior written approval of the Agency for all restructuring actions.

After SEL has restructured the loan, the lender must submit:

- FSA-1980-44 indicating that the loan is current
- copies of restructured notes or LOC's.

313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145) (Continued)

A SEL Request for Restructuring (Continued)

After SEL has submitted all of these documents, FSA shall:

- review the documents for compliance
- input FSA-1980-44 into GLS
- execute FSA-1980-84 and provide a copy to the lender, if applicable
- *--complete and forward FSA-1980-48 to KCFO.--*

* * *

Note: For loans with IA, see subparagraphs 230 D and E for additional requirements.

B CLP Restructuring Requirements

CLP lenders must obtain prior written approval of the Agency only for debt write down under this section.

For restructuring other than write down, CLP lenders will provide FSA with a certification that each requirement of this section (part) has been met, a narrative outlining the circumstances surrounding the need for restructuring, and copies of any applicable calculations.

313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145) (Continued)

B CLP Restructuring Requirements (Continued)

In addition, the CLP lender will provide:

- copies of any restructured notes
- FSA-1980-44 to show the loan is current.

* * *

--After the CLP lender has submitted all of these documents, FSA shall complete the same actions as for SEL's.--

C PLP Restructuring Requirements

PLP lenders will restructure loans in accordance with their lender's agreement.

A PLP lender may request guidance on or concurrence with a restructuring proposal. The Authorized Agency Official shall review the lender's request for compliance with the terms indicated in the credit management plan of their PLP FSA-1980-38.

313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145) (Continued)**C PLP Restructuring Requirements (Continued)**

All PLP lenders will submit copies of any restructured notes to FSA. With the copies of any restructured notes, PLP's must attach a cover memo explaining the restructuring and FSA-1980-44 to confirm that the loan is once again current.

--After the PLP lender has submitted all of these documents, FSA shall complete the same actions as for CLP lenders.--

314 FSA Response to Restructuring Requests**A Authorized Agency Official Responsibilities**

Authorized Agency Officials have several responsibilities in the event a loan defaults and a lender submits a restructuring plan, including:

- provide loan restructuring assistance and guidance as requested
- review FSA-1980-44 for compliance with FSA guarantee documents, the lender's loan agreement, promissory note, and FSA regulations
- inform the lender if the borrower is eligible for IA if requested
- process all FSA-1980-44's in GLS.

The Authorized Agency Official should contact the lender to discuss any problems with the proposal, request corrections, or suggest revisions. If the requested corrections are significant, this contact should be followed up with a letter outlining the additional information needed and a time frame for it to be provided. If the proposal is approved, the Authorized Agency Official will inform the lender that they may proceed to restructure the loan.

If the lender fails to provide updates on recent or planned collection actions, estimated timeframes for corrective actions proposed by the borrower, or other information reviewed that indicates that the lender is not acting timely or prudently to protect their interest, the Authorized Agency Official will inform the lender in writing of the problems noted and request modifications.

314 FSA Response to Restructuring Requests (Continued)

A Authorized Agency Official Responsibilities (Continued)

If an SEL lender has made the decision to liquidate a loan, the Authorized Agency Officials should ensure that SEL has investigated the feasibility of every restructuring option before a decision to liquidate was reached. It is solely the lender's prerogative to accept or reject a borrower's plan for resolution of a default or offer an option for restructuring the debt. Still, the Authorized Agency Official should review the situation and advise the lender of any unexplored servicing options that exist that may benefit the borrower, lender, and FSA.

B FSA Response to Requests for Restructuring

[7 CFR 762.145(a)] If the standard eligible lender's proposal for servicing is not agreed to by the Agency, the Agency approval official will notify the lender in writing within 14 days of the lender's request.

Authorized Agency Officials must review and respond to a restructuring request from SEL in a timely manner. Any request for concurrence on a restructuring plan must be accompanied by all necessary supporting documents according to paragraphs 313 and 326 through 328.

- **FSA Response to Rescheduling Request:** The Authorized Agency Official must review SEL's proposed rescheduling to determine that it is feasible and that the repayment period does not exceed the maximum allowable term. If SEL proposes a restructuring of a loan with capitalized interest the Authorized Agency Official must concur on the capitalization request along with the rescheduling request.
- **--FSA Response to Deferral Request:** After reviewing the restructuring proposal, the Authorized Agency Official must ensure that the deferral plan is feasible and that the deferral does not extend beyond the final due date of the loan note. If the deferral period extends beyond 1 year, interest in its totality cannot be deferred. A portion of interest--* must be paid for each year the loan is in abeyance.

If the lender's proposal for servicing is not agreed to by FSA, the Agency approval official shall notify the lender in writing within 14 calendar days of the lender's request. This letter will inform the lender and borrower of their joint informal review, mediation, and appeal rights according to 1-APP.

314 FSA Response to Restructuring Requests (Continued)

C FSA Review of PLP Restructuring Actions

In addition, an explanation of the restructuring must accompany a completed FSA-1980-44 confirming that the loan is current.

The Authorized Agency Official shall review the loan restructuring documents according to paragraphs 313 and 326 through 328, and confirm that the restructuring action(s) did not violate any FSA regulations. If the Authorized Agency Official has any concerns regarding the restructuring of the loan, the Authorized Agency Official shall contact the lender to discuss the concerns.

315-325 (Reserved)

Section 3 Restructuring Options**326 Rescheduling of Debt (7 CFR 762.145)****A Overview**

Rescheduling involves changing the payment terms of a loan, such as a change in the interest rate or term in years of a note or LOC agreement. The new repayment schedule must be based on the borrower's ability to repay over the maximum loan term or life of the security. A loan does not have to be in default before being rescheduled.

B General Requirements for Rescheduling

[7 CFR 762.145(c)] Payments will be rescheduled within the following terms:

- **FO and existing SW loans may be amortized over the remaining term of the note or rescheduled with an uneven payment schedule over a period not to exceed 40 years from the date of the original note**
- **OL notes must be rescheduled over a period not to exceed 15 years from the date of the rescheduling. An OL line of credit must be rescheduled over a period not to exceed 7 years from the date of the rescheduling or 10 years from the date of the original note, whichever is less. Advances cannot be made against a line of credit loan that has had any portion of the loan rescheduled.**

The interest rate for a rescheduled loan is the negotiated rate agreed upon by the lender and the borrower at the time of the action, subject to the loan limitations for each type of loan.

326 Rescheduling of Debt (7 CFR 762.145) (Continued)

C Required Lender Actions

[7 CFR 762.145(c)] A new note is not necessary when rescheduling occurs. However, if a new note is not taken, the existing note or line of credit agreement must be modified by attaching an “allonge” or other legally effective amendment, evidencing the revised repayment schedule and any interest rate change. If a new note is taken, the new note must reference the old note and state that the indebtedness evidenced by the old note or line of credit agreement is not satisfied. The original note or line of credit agreement must be retained.

To request a rescheduling, SEL lenders must submit documentation according to the requirements listed in paragraph 313 and obtain FSA approval before implementation of the action. CLP and PLP lenders must submit documentation according to requirements listed in paragraph 313 **after** rescheduling a loan.

D Capitalization of Interest

[7 CFR 762.145(b)] The lender may capitalize the outstanding interest when restructuring the loan as follows:

- **As a result of the capitalization of interest, a rescheduled promissary note may increase the amount of principal which the borrower is required to pay. However, in no case will such principal amount exceed the statutory loan limits contained in § 762.122.**
- **When accrued interest causes the loan amount to exceed the statutory loan limits, rescheduling may be approved without capitalization of the amount that exceeds the limit. Noncapitalized interest may be scheduled for repayment over the term of the rescheduled note.**

In a restructuring action, if capitalization of interest will cause the increased combined ~~principal~~ of the borrower’s outstanding OL’s and FO’s to exceed the limits outlined in subparagraph 244 A, the portion of the interest that would cause the loan to exceed the ~~loan~~ limit cannot be capitalized. Excess interest will be guaranteed and the lender may schedule the repayment over the term of the rescheduled note. If payments are received on the loan after the restructuring that exceed the regularly scheduled installment, excess payments may be applied to the non-capitalized interest first.

326 Rescheduling of Debt (7 CFR 762.145) (Continued)

D Capitalization of Interest (Continued)

- **Only interest that has accrued at the rate indicated on the borrower's original promissory notes may be capitalized. Late payment fees or default interest penalties that have accrued due to the borrower's failure to make payments as agreed are not covered under the guarantee and may not be capitalized.**
- **Approved capitalized interest will be treated as part of the principal and interest that accrues thereon, in the event that a loss should occur.**

As part of restructuring request, SEL's must receive FSA concurrence before interest can be capitalized.

Following restructuring, the lender should submit FSA-1980-44 indicating that the loan is current.

The lender may keep a record of late fees and default charges and collect them from the borrower in the case of extra payments or payment in full.

E FSA Review of Capitalization Request

The Agency will execute a modification of guarantee form to identify the new loan principal and the guaranteed portion if greater than the original loan amounts, and to waive the restriction on capitalization of interest, if applicable, to the existing guarantee documents. The modification form will be attached to the original Guarantee as an addendum.

When CLP or PLP has rescheduled or reamortized a loan with capitalized interest, or when the Authorized Agency Official has concurred with SEL restructuring plan that includes *-capitalized interest, FSA must complete FSA-1980-84 to reflect the new guaranteed principal and any capitalized interest.

A copy of FSA-1980-84 will be placed in the FSA guaranteed loan file and the original will be attached to the original guarantee.--*

326 Rescheduling of Debt (7 CFR 762.145) (Continued)

* * *

F IA

Rescheduling of a loan with IA must meet all the conditions described in this paragraph and Part 9.

G Loan Consolidation

If a borrower has 2 or more guaranteed loans, the lender, under certain circumstances, may consolidate the guaranteed loans before rescheduling. The single, consolidated loan would be rescheduled according to this paragraph. See paragraph 286 for conditions regarding the consolidation of guaranteed loans.

327 Deferrals (7 CFR 762.145(d))**A General Description**

A deferral postpones the payment of principal and interest on FO, OL, or LOC to accommodate a temporary inability of the borrower to make scheduled payments. Loan principal can be deferred in whole or part. If the deferment period is 1 year or less, interest can be deferred in whole or in part. Interest may only be deferred in part if the deferral period extends over 1 year.

B Conditions

The following conditions apply to deferrals:

- **Payments may be deferred up to 5 years, but the loan may not be extended beyond the final due date of the note.**
- **The principal portion of the payment may be deferred either in whole or in part.**
- **Interest may be deferred only in part. Payment of a reasonable portion of accruing interest as indicated by the borrower's cash flow projections is required for multi-year deferrals.**
- **There must be a reasonable prospect that the borrower will be able to resume full payments at the end of the deferral period.**

The amount of principal and interest deferred must be based on the borrower's current ability to pay and projections regarding ability to pay in the future. If the deferral period is to extend beyond 1 year, only a portion of the interest can be deferred.

--If a LOC deferral exceeds 1 year, then LOC must be restructured and no new advances can be made. For LOC deferrals for less than 1 year there must be either inventory on hand to cover the carryover debt balances or they must show repayment of the carryover debt plus the new operating cycle advances. If the LOC deferral is 1 year or less, it is unnecessary to notify the Finance Office.--

The loan may be rescheduled after the deferral if payments as scheduled cannot be made.

C Lender Request to Defer a Loan

To request a deferral, SEL lenders must submit documentation according to the requirements ***--listed in paragraph 313. Based on this documentation, the Authorized Agency Official--*** will notify the lender in a timely manner whether or not the deferral plan is approved.

CLP lenders must submit documentation according to paragraph 313, after completing the loan restructuring.

PLP must restructure loans according to FSA-1980-38 and provide post-restructuring documentation to FSA according to paragraph 313.

328 Debt Writedown (7 CFR 762.145(e))**A Overview**

A debt writedown involves writing off a portion of the outstanding balance of a loan. A lender may write down a delinquent guaranteed loan only in an amount sufficient to enable the borrower to repay the reduced debt over the remaining term of the loan. All lenders must seek FSA concurrence before they can execute a debt writedown. Debt writedown loss claims must be approved by SED.

B General Requirements

The following conditions apply to debt writedown:

- **A lender may only writedown a delinquent guaranteed loan or line of credit in an amount sufficient to permit the borrower to develop a feasible plan of operation as defined in § 762.102(b).**
- **The lender will request other creditors to negotiate their debts before a writedown is considered.**
- **The borrower cannot develop a feasible plan after consideration is given to rescheduling and deferral under this section.**
- **The present value of the loan to be written down, based on the interest rate of the rescheduled loan, will be equal to or exceed the net recovery value of the loan collateral.**
- **The loan will be restructured with regular payments at terms no shorter than 5 years for a line of credit and OL loan note and no shorter than 20 years for FO, *--unless required to be shorter by § 762.145(c)(1)(i) and (ii).--***
- **No further advances may be made on a line of credit that is written down.**
- **Loans may not be written down with interest assistance. If a borrower's loan presently on interest assistance requires a writedown, the writedown will be considered without interest assistance.**
- **The writedown is based on writing down the shorter-term loans first.**

328 Debt Writedown (7 CFR 762.145(e)) (Continued)

B General Requirements (Continued)

- When a lender requests approval of a writedown for a borrower with multiple loans, the security for all of the loans will be cross-collateralized and continue to serve as security for the loan that is written down. If a borrower has multiple loans and one loan is written off entirely through debt writedown, the security for that loan will not be released and will remain as security for the other written down debt. Additional security instruments will be taken if required to cross-collateralize security or maintain lien priority.
- The writedown will be evidenced by an allonge or amendment to the existing note or line of credit reflecting the writedown.

--The payment of a loss claim in conjunction with a debt writedown does not establish a Federal debt and is not subject to offset.--

The holder or holders, if any, must agree to the writedown or the lender must repurchase the guaranteed portion.

C Borrower Execution of FSA-1980-89

The borrower executes an Agency shared appreciation agreement for loans which are written down and secured by real estate. See paragraph 288 for information on servicing FSA-1980-89's.

- The lender will attach the original agreement to the restructured loan document.
- The lender will provide the Agency a copy of the executed agreement.
- Security instruments must ensure future collection of any appreciation under the agreement.

328 Debt Writedown (7 CFR 762.145(e)) (Continued)**D Lender Actions to Support Write Down Debt Request**

The lender will prepare and submit the following to the Agency:

- **a current appraisal of all property securing the loan in accordance with § 762.127 and paragraphs 181 through 183**
- **a completed report of loss on the appropriate Agency form for the proposed writedown loss claim**

*** * ***

- **detailed writedown calculation as follows:**

Note: Detailed writedown calculations will be recorded on FSA-1980-88. Refer to FMI for completion instructions and examples. If a borrower's cash flow projection indicates that within a definite, foreseeable time, additional repayment will be available for the guaranteed loan, the present value of the loan will be calculated based on an uneven payment stream.

- **calculate the present value (Exhibit 10)**
- **determine the net recovery value (Exhibit 10)**
- **if the net recovery value exceeds the present value, writedown is unavailable; liquidation becomes the next servicing consideration**
- **if the present value equals or exceeds the net recovery value, the debt may be written down to the present value**
- **the lender will make any adjustments in the calculations, as requested by the Agency.**

328 Debt Writedown (7 CFR 762.145(e)) (Continued)**D Lender Actions to Support Write Down Debt Request (Continued)**

The appraisal will be paid for by the lender, but the cost can be passed to the borrower.

FSA-1980-88 will be used to calculate lender loss. After the lender loss has been calculated on FSA-1980-88, the lender loss claim will be submitted on RD-449-30. Lender loss will be the percentage of the guarantee multiplied by the difference between the outstanding principal and interest balance of the loan before the writedown and the outstanding balance of the loan after the writedown.

In addition to the materials noted in this paragraph, SEL's and CLP's must submit materials according to paragraph 313 to request a debt writedown.

329 FSA Review and Monitoring of Restructured Loans (7 CFR 762.145(b))**A Post-Restructuring Review and FSA Reporting Requirements**

--The Authorized Agency Official shall, after receiving a restructured note or LOC or an amendment to a note or LOC from a lender, review all applicable restructuring documents-- received by FSA, including the restructured note and FSA-1980-44 stating that the loan is current, and ensure that the loan was restructured with the principal, accrued interest, payments, interest rate and terms to which FSA agreed. If any discrepancies are found between regulatory requirements or the restructuring plan FSA originally agreed to and the executed restructuring, the lender must correct the restructured note. After the correctness of the restructured note has been verified, the restructured or amended note and the Modification of Guarantee, if interest was capitalized, should be attached to the copy of the original note.

* * *

329 FSA Review and Monitoring of Restructured Loans (7 CFR 762.145(b)) (Continued)**B FSA Monitoring of Lender Loan Files With Restructured Loans**

When reviewing files of loans that have been restructured, FSA employees must ensure that lenders restructured their loans according to the terms agreed to by FSA according to their FSA-1980-38. If the loan was restructured with terms that FSA did not agree to, the lender must adjust the loan terms to comply with terms FSA agreed to originally.

When reviewing CLP loan files, Authorized Agency Officials should ensure that loans were restructured according to FSA rules and regulations and that the materials submitted in support of a restructuring action are accurate.

When reviewing restructured loan files made by PLP lenders, Authorized Agency Officials should ensure that all restructuring was done according to FSA-1980-38. If FSA-1980-38 is silent on a certain restructuring subject, the PLP lender must follow FSA rules and regulations for CLP lenders.

FSA may use FSA-1980-05 as a guide for reviewing debt writedowns.

C FSA Monitoring of Loans That Have Been Restructured

A final loss claim may be reduced, adjusted, or rejected as a result of negligent servicing after the concurrence with a restructuring action under this section.

If the lender submits a loss claim on a loan that was restructured, and the loan was not restructured according to FSA-approved terms, the loss claim may be reduced or denied altogether.

330-339 (Reserved)

Part 13 Bankruptcy**340 Bankruptcy (7 CFR 762.148(a))****A Overview**

The lender must protect the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings.

Lenders can apply to FSA to recover principal, interest, and certain expenses lost as a result of bankruptcy proceedings.

341 Lender's Responsibilities in Bankruptcy Proceedings (7 CFR 762.148(a))**A Lender Responsibilities in Bankruptcy Cases**

Lenders must satisfy all requirements pertaining to a creditor in a bankruptcy proceeding, including the procedures under Chapter 7 (Liquidation), Chapter 11 (Reorganization), Chapter 12 (Adjustment of Debts of a Family Farmer with Regular Annual Income), or Chapter 13 (Adjustment of Debts of an Individual with Regular Income) of the Bankruptcy Code (Title 11 of the United States Code), whichever is applicable. Lenders must ensure that a valid proof of claim is submitted; that collateral securing the guaranteed loan is protected; and that all rights of participation are exercised or protected. **The lender's responsibilities include, but are not limited to,** the following requirements.

- **Filing a proof of claim where required and all the necessary papers and pleadings.**
If the loan includes FSA-1980-89, it must be included in the lender's proof of claim. See paragraph 288.
- **Attending, and where necessary, participating in meetings of the creditors and court proceedings.**

341 Lender's Responsibilities in Bankruptcy Proceedings (7 CFR 762.148(a)) (Continued)**A Lender Responsibilities in Bankruptcy Cases (Continued)**

- **Protecting the collateral securing the guaranteed loan and resisting any adverse changes that may be made to the collateral.** If the debtor remains in possession, the lender must monitor for any adverse changes that may be made to the collateral and resist those changes by legal action, repossession of the collateral, or other suitable means. If the trustee in bankruptcy has assumed jurisdiction over the collateral, the lender must cooperate with the trustee in the administration of the estate. Such cooperation, however, should not preclude the lender from opposing actions of the trustee that do not advance the interests of the lender. The lender should attend and observe any public sales of collateral held by the trustee, and if appropriate submit a minimum bid.
- **Seeking a dismissal of the bankruptcy proceeding when the operation as proposed by the borrower to the bankruptcy court is not feasible.**
- **Monitor confirmed plans under chapters 11, 12, and 13 of the bankruptcy code to determine borrower compliance. If the borrower fails to comply, the lender will seek a dismissal of the reorganization plan.**
- **When permitted by the bankruptcy code, requesting a modification of any plan of reorganization if it appears additional recoveries are likely.**
- **Keeping the Agency regularly informed in writing of all aspects of the proceedings.**
 - The lender will submit a regular default status report when the borrower defaults and should inform FSA of all significant steps in the bankruptcy proceeding, including the dates and pertinent details concerning:
 - confirmation of the plan
 - effective date of the plan
 - date the plan is completed
 - failure of the debtor to comply with the plan
 - discharge of the debtor.

341 Lender's Responsibilities in Bankruptcy Proceedings (7 CFR 762.148(a)) (Continued)**A Lender Responsibilities in Bankruptcy Cases (Continued)**

- **The lender shall submit a default status report when the borrower defaults and every 60 days until the default is resolved or a final loss claim is paid.** The initial Default Status Report is sent to the local credit office immediately following the lender-borrower default meeting (see paragraph 313).
- **The default status report will be used to inform the Agency of the bankruptcy filing, the reorganization plan confirmation date and effective date, when the reorganization plan is complete, and when the borrower is not in compliance with the reorganization plan.**

342 Lender's Claims for Expenses and Estimated Losses in Reorganization Bankruptcy Proceedings (7 CFR 762.148)**A Claims for Expenses in Reorganizations**

Lenders will be compensated for expenses and losses incurred as a result of a Chapter 11, 12, or 13 bankruptcy proceeding as follows:

- **Lender's in-house expenses, which are those expenses which would normally be incurred for administration of the loan, including in-house lawyers, are not covered by the guarantee.**
- Expenses paid by lenders to third parties will be compensated as follows.
 - **Expenses, such as legal fees, and the cost of appraisals incurred by the lender as a direct result of the borrower's Chapter 11, 12, or 13 reorganization, are covered under the guarantee, provided they are reasonable, customary, and provide a demonstrated economic benefit to the lender and the Agency and will be paid upon satisfactory claim by the lender.** Such expenses must be incurred following the filing of a voluntary petition by the borrower, and must be incurred before discharge of the debtor. Such third party costs must be reasonable and appropriate, and must be documented in the lender's files. Reasonable and appropriate generally will be determined by the commercial standards and practices in that location, and should be typical for the unguaranteed loans of the lender. Appraisal costs significantly higher than typical appraisal costs for a similar appraisal in the same part of the country by an appraiser of similar experience, for example, might be unreasonable.

342 Lender's Claims for Expenses and Estimated Losses in Reorganization Bankruptcy Proceedings (7 CFR 762.148) (Continued)

A Claims for Expenses in Reorganizations (Continued)

***--Note:** RD-449-30 is not designed to include legal fees as part of a loss claim. Legal fees incurred in a reorganization should be combined with any protective advances applicable and included in item 13 until RD-449-30 is changed to include legal fees separately. To ensure proper accounting of the claim, an explanatory memorandum should accompany the loss claim when it is sent to the Finance Office. When reviewing the ledger provided with a loss claim, it should be noted that interest may accrue on protective advances; however, interest that accrues on legal fees paid by the lender are not covered by the Guarantee.--*

- Claims for expenses in reorganizations may be combined with claims for estimated losses of principal and interest or protective advances, but will not be paid the lender before plan confirmation.

B Claims for Estimated Losses of Principal and Interest in Reorganizations

Lenders may submit a claim for losses of principal and interest sustained as a result of a reorganization plan in a bankruptcy reorganization proceeding.

- Claims should be submitted using RD-449-30 to the Authorized Agency Official. The Authorized Agency Official shall review the claim using FSA-1980-06 and either request modifications by the lender or forward the claim to SED with recommendations and supporting documents as necessary.
- **At confirmation, the lender may submit an estimated loss claim upon confirmation of the reorganization plan in accordance with the following:** The initial estimated loss claim must include a copy of the confirmed bankruptcy plan and a memorandum clearly indicating the plan confirmation date, the date the plan is to go into effect, and any other relevant information concerning the loan and the loss claim, or such supporting documentation must be supplied immediately following confirmation of the plan. The loss will be paid as of the plan effective date with no additional interest accrual after that date.
- **The estimated loss claim will cover the guaranteed percentage of the principal and accrued interest written off, plus any allowable costs incurred as of the effective date of the plan.**
- **The lender will submit supporting documentation for the loss claim.**

342 Lender's Claims for Expenses and Estimated Losses in Reorganization Bankruptcy Proceedings (7 CFR 762.148) (Continued)

B Claims for Estimated Losses of Principal and Interest in Reorganizations (Continued)

- **The estimated loss payment may be revised as consistent with a court-approved reorganization plan.**
- ***--The estimated loss claim may be revised after a court approved partial liquidation of the collateral. When this occurs, the revised claim will be based upon the actual value received for the liquidated collateral as long as the lender made every effort to ensure that maximum proceeds were received.--***

C Claims for Estimated Interest-Only Losses in Reorganizations

Lenders may submit an estimated loss claim for interest only after confirmation of the reorganization plan in accordance with the following.

- Claims should be submitted using RD-449-30 to the Authorized Agency Official.
- The interest-only estimated loss claim can be approved only after confirmation date of the reorganization plan.
- The initial interest-only estimated loss claim may include a claim for interest accrued to the effective date of the reorganization plan (the date when the plan becomes effective). This date may be later than the date the plan is approved by the court, the confirmation date. This loss will be paid as of the plan effective date with no additional interest accrual after that date.
- If the lender has a variable rate that remains at or below the court-ordered rate during the claim period, no loss claim may be submitted.
- Subsequent claims for interest-only estimated losses covering 1-year periods following the effective date of the reorganization plan may be submitted annually, and will be processed on the anniversary date of the effective date of the reorganization plan or immediately thereafter.
- **The loss claims may cover interest losses sustained as a result of court-ordered, permanent interest rate reduction.**
- **The loss claims will be processed annually on the anniversary date of the effective date of the reorganization plan.**

***--Note:** Loss claims may also be processed immediately following the payment due date established in the reorganization plan and on that date annually thereafter.--*

342 Lender's Claims for Expenses and Estimated Losses in Reorganization Bankruptcy Proceedings (7 CFR 762.148) (Continued)

C Claims for Estimated Interest-Only Losses in Reorganizations (Continued)

- If the borrower performs under the terms of the reorganization plan, annual interest reduction loss claims will be submitted on or near the same date, beyond the period of the reorganization plan.

D Claims for Reimbursement of Protective Advances in Reorganizations

Protective advances made and approved in accordance with § 762.149 may be included in an estimated loss claim associated with a reorganization, if:

- they were incurred in connection with the initiation of liquidation action prior to bankruptcy filing
- the advance is required to provide repairs, insurance, etc. to protect the collateral as a result of delays in the case or failure of the borrower to maintain the security.

--Interest that accrues on protective advances will accrue only to the effective date of the reorganization plan.--

E Claims for Actual Losses in Reorganizations

Once the reorganization plan is complete, the lender will provide the Agency with documentation of the actual loss sustained.

- If the actual loss sustained is greater than the estimated loss payment, the lender may submit a revised estimated loss claim to obtain payment of the additional amount owed by the Agency under the guarantee.
- If the actual loss is less than the prior estimated loss, the lender will reimburse the Agency for the overpayment plus interest at the note rate from the date of the payment of the estimated loss.

F Payment to Holder in Reorganizations

In reorganization bankruptcy, if a holder makes demand upon the Agency, the Agency will pay the holder interest to the plan's effective date. Accruing interest thereafter will

--be based upon the provisions of the reorganization plan. For lender and FSA responsibilities upon FSA repurchase, see subparagraph 376 B.--

343 Lender's Claims for Expenses and Estimated Losses in Liquidation Bankruptcy Proceedings (7 CFR 762.148)**A Claims for Expenses in Liquidation**

[7 CFR 762.148(b)] Reasonable and customary liquidation expenses may be deducted *--from the proceeds of the collateral in liquidation bankruptcy cases or in reorganization bankruptcy where the plan calls for a partial liquidation of the collateral.--*

- **In-house expenses are not considered reasonable and customary liquidation expenses and may not be deducted from collateral proceeds.**
- **[7 CFR 762.148(d)] Upon receipt of notification that a borrower has filed for protection under Chapter 7 of the Bankruptcy Code, or upon confirmation of a liquidation plan under Chapter 11, the lender must proceed according to the liquidation procedures of this part (Part 14).**
- **If the property is abandoned by the trustee, the lender will conduct the liquidation according to § 762.149, and seek to realize value from the property.**
- **Proceeds received from partial sale of collateral during bankruptcy may be used by the lender to pay reasonable costs, such as freight, labor and sales commissions, associated with the partial sale. Reasonable use of proceeds for this purpose must be documented with the final loss claim in accordance with § 762.149(a)(vi).**

344 FSA Responsibilities in Bankruptcy Proceedings**A Agency Monitoring**

The Authorized Agency Official must review the default status report, submitted by the lender and periodically monitor the lender's files to ensure that all necessary actions are taken by the lender concerning a bankruptcy case. This review should include verifying that the lender:

- files proof of claim and all necessary papers and pleadings concerning the case
- attends and where necessary participates in meetings of the creditors and all court proceedings
- seeks adequate protection of the collateral
- advises the Authorized Agency Official of the status of the bankruptcy action
- requests modification or dismissal of any plan of reorganization if it appears that additional recoveries are likely or if the borrower fails to comply with the requirements of the plan.

During a bankruptcy proceeding, the Authorized Agency Official must:

- determine the necessity of an independent appraisal of collateral
- review documentation supporting loss claims, including expense claims, submitted by the lender.

B Review of Bankruptcy Loss Claim

The Authorized Agency Official must:

- review RD-449-30 submitted by the lender, for accuracy, to ensure that RD-449-30 is coded correctly
- accept the loss claim or contact the lender to obtain revisions or additional information
- forward the claim to SED or its designee.

***--Note:** The payment of any loss claim under a Chapter 7 or reorganization bankruptcy establishes a Federal debt, but is not subject to offset.--*

All loss claims must be approved by SED. Following approval, SED shall forward approved loss claims to the Finance Office.

345-354 (Reserved)

Part 14 Liquidation

355 Liquidation Process (7 CFR 762.149)

A Liquidation Process Overview

After a lender has determined that a borrower's financial difficulties cannot be solved with any 1 or combination of the loan restructuring options, the lender must liquidate the loan. All lenders are expected to proceed with liquidation in the following chronological order.

- The lender must give the borrower notice that the loan will be liquidated.
- The lender must accelerate the note.
- The lender must prepare a liquidation plan. SEL and CLP lenders will provide FSA with a copy.
- The lender must submit an estimated loss claim with the liquidation plan if liquidation is expected to exceed 90 calendar days.
- The lender must liquidate the security.
- The lender must submit a final loss claim.
- The lender must remit future recoveries to FSA in proportion to the percentage of the guarantee.

Liquidation steps (maximum timeframes) are summarized as follows.

All dates measured in days after payment due date unless otherwise noted	
60 Days*	Earliest Date that Lender Can File to Liquidate Security
90 Days	Lender Gives Notice to Borrower and Accelerates the Loan or Implements a Loan Restructuring Plan
120 Days	Lender must reach decision as to whether the account will be restructured or liquidated.
150 Days	Liquidation plan and estimated loss claim must be submitted.
164 Days	Estimated protective advances must be concurred with by FSA.
170 Days	Liquidation plan must be approved by FSA.
180 Days	Estimated loss claim must be approved by FSA.
260 Days	Liquidation completed.
290 Days	Final loss claim submitted.
330 Days**	FSA should approve or request modification of final loss claim.
* 60 days after disposition of IA eligibility issue (see paragraph 300)	
** 40 days after submission of final loss claim (see subparagraph 360 F)	

355 Liquidation Process (7 CFR 762.149) (Continued)**B Earliest Date the Lender Can File to Liquidate Security**

The lender may not initiate foreclosure action on the loan until 60 calendar days after eligibility of the borrower to participate in the IA Program has been established by FSA. The lender and borrower must discuss IA Program eligibility at the default meeting. See paragraph 300 for more information on this meeting. If IA eligibility was waived in writing by the borrower, the lender may prepare to liquidate the loan immediately following receipt of the waiver.

It is the lender's prerogative to request IA on a loan, regardless of the borrower's desire or eligibility for the subsidy. However, it must be considered and documented in some fashion that it was rejected as an option. The Authorized Agency Official shall remind the lender of this requirement if they attend the post default lender borrower meeting. Following this meeting or receipt of FSA-1980-44, the Authorized Agency Official shall make a written entry in the running record of the borrower's FSA file as to the date that IA was considered and when the 60-calendar-day abeyance period ends.

C FSA-1980-44 Is Submitted

FSA-1980-44 must be submitted following the lender-borrower default meeting and every 60 calendar days thereafter. The original report will notify FSA that the borrower is in default. Subsequent FSA-1980-44 reports will comment on the progress of liquidation and identify any problems the lender is having or may have in completing the liquidation in a timely manner.

If FSA-1980-44 is not received as required, the Authorized Agency Official shall contact the lender, inquire as to the status of the account and request that an accurate report be provided. If necessary, this contact should be followed up with a letter, and if the Authorized Agency Official feels it is necessary, a copy provided to SED. Interest that accrues during unnecessary delays will not be paid as part of a loss claim. SED and DD shall monitor guaranteed loan delinquency reports to ensure that liquidating accounts are being monitored and reports are being filed timely.

355 Liquidation Process (7 CFR 762.149) (Continued)

D Decision to Liquidate Must Be Reached or a Loan Restructuring Plan Must Be Implemented

Sometime between the date that the borrower's payment was due but not paid and 45 calendar days thereafter, the lender is expected to notify the borrower of the default and meet with the borrower to discuss solutions. Within 75 calendar days of this meeting (or unsuccessful attempts to meet) the account should be paid current or restructured. If a solution that requires more than 75 calendar days (90 calendar days after default) is agreed to, the reasons should be indicated on FSA-1980-44. The Authorized Agency Official shall review FSA-1980-44 and depending on what the lender's plans are, concur with the lender's plan, request a restructuring plan, request a liquidation plan, or mark the file for a follow up action as of the date the account is supposed to be paid current.

E Liquidation Plan and Estimated Loss Claim Must Be Submitted

Within 30 days of the decision to liquidate, standard eligible and CLP lenders will submit a written liquidation plan to the Agency (see paragraph 358). An estimated loss claim will be submitted by the lender with the liquidation plan if the liquidation is expected to exceed 90 days (see paragraph 359). PLP lenders will submit a liquidation plan if it is required by their Lender's Agreement.

If the liquidation is expected to be completed within 90 calendar days of the decision to liquidate, the submission of an estimated loss claim is not necessary.

The Authorized Agency Official shall review the lender's estimates of time frames and, based on their knowledge of the case and similar cases in their area, advise the lender of any concerns. If the lender estimates that liquidation will take less than 90 calendar days, FSA shall pay no more than 90 calendar days of interest on the final loss. Also, if liquidation is expected to take longer than 90 calendar days and the lender estimates that there will be no loss on the loan after considering the net recovery value of the security, the lender will either discontinue interest on the loan as of 90 calendar days after the decision to liquidate, or *--submit an estimated loss of \$0. If liquidation is expected to exceed 90 calendar days and a loss is expected, the lender must submit an estimated loss claim. The lender will discontinue interest accrual on the defaulted loan at the time the estimated loss claim is paid by FSA. See subparagraph 359 A. If the lender fails to report default on a guaranteed loan to FSA or--* otherwise comply with the requirements of this part, FSA shall pay interest that accrues only up to 90 calendar days after default as part of a final loss claim.

355 Liquidation Process (7 CFR 762.149) (Continued)**F Liquidation Plan Is Approved or Rejected by FSA**

When the decision has been made to liquidate, a liquidation plan is required to be submitted by a CLP lender or SEL in all cases, including where all of the security has been sold, the borrower is liquidating voluntarily, or when no loss is expected. FSA shall review a lender's liquidation plan and either approve it or request modifications within 20 calendar days after it is received. See subparagraph 358 F.

G Estimated Loss Claim Is Approved by FSA or Modified by Lender

If an estimated loss claim is submitted, it may be reviewed and approved separately from the liquidation plan. FSA shall respond in writing within 30 calendar days of the receipt of the lender's estimated loss claim. If FSA wishes to dispute the estimated loss claim, FSA will resolve their differences with the lender before this 30-calendar-day deadline. See subparagraph 359 F.

SED shall determine the level of review to be conducted on each estimated loss claim.

Estimated loss claims submitted by PLP lenders will be reviewed only for the accuracy of RD-449-30 and any mathematical calculations. Lender's will reimburse FSA for any

--overpayments on estimated loss claims at the time of a final loss, plus interest, at the note rate.--

H Liquidate

Liquidation is expected to be completed within 230 calendar days after the borrower was declared in default, unless otherwise approved in the liquidation plan.

I Final Loss Claim Is Submitted

Lenders may submit a final loss claim when the security has been liquidated and all proceeds have been received and applied to the account. See paragraph 360.

A final loss claim should be submitted within 30 calendar days of the completion of liquidation or within 260 calendar days after the borrower was declared in default, unless an extension of this period is granted. The Authorized Agency Official shall document the request for an extension and approve it or reject it as soon as practical.

The Authorized Agency Official shall monitor liquidations and request a loss claim when they are aware that an account has been liquidated. A final loss claim will be reduced if there are unjustified delays in liquidation or submission of a claim. If the account is paid in full, FSA-1980-44 and FSA-1980-41 shall be input indicating that the loan is paid and the guarantee terminated.

356 Mediation (7 CFR 762.149(a))**A Mediation Requirements**

When it has been determined that a default cannot be cured through any of the servicing options available or if the lender does not wish to utilize any of the authorities provided in this part, the lender must:

- **participate in mediation according to the rules and regulations of any State which has a mandatory farmer-creditor mediation program**
- **consider private mediation services in those states which do not have a mandatory farmer-creditor mediation program**
- **not agree to any proposals to rewrite the terms of a guaranteed loan which do not comply with this part.**

Any agreements reached as a result of mediation involving defaults and or loan restructuring must have written concurrence from the Agency before they are implemented.

If requested by the lender, FSA may participate in mediation to provide guidance on FSA regulations and guidelines. However, the FSA representative may not concur on any restructuring plans that require FSA approval during a mediation meeting. Restructuring plans developed during mediation that require FSA approval must be submitted to the local credit office according to Part 12.

Though not indicated in the liquidation time line, the mediation process should begin immediately following a lender's decision to liquidate a loan. If the borrower fails to attend the default meeting required by paragraph 300, or if this meeting does not result in a plan for restructuring, then the lender should notify the borrower of the results of the meeting and their intention to proceed with liquidation of the account. This notification should include an offer of mediation, an explanation of what mediation may accomplish, and instructions on how and where a mediation hearing may be requested. This information is available from FSA State Offices or the State Department of Agriculture of the State in which the borrower is located.

If SED determines that a lender's failure to participate in a mediation program caused a loss to the Government, a final loss claim payment may be reduced or denied. SEL lenders who consistently fail to participate in mediation may jeopardize consideration for CLP or PLP status.

357 Foreclosure and Acceleration (7 CFR 762.149)**A Overview**

Once the lender has made the decision to liquidate a loan, the lender must initiate foreclosure action and accelerate the loan. The lender may not initiate foreclosure action on the loan until 60 calendar days after eligibility of the borrower to participate in the IA Programs has been established by FSA. The lender may accelerate the loan before FSA approval of a liquidation plan.

B Borrower Files for Bankruptcy After Loan Note is Accelerated

If the borrower files for bankruptcy after the loan note is accelerated, the lender suspends liquidation proceedings until 1 of the following actions:

- bankruptcy case is dismissed or closed
- order lifting automatic stay is obtained from the court
- property is no longer property of bankruptcy estate and customer has been discharged (see Part 13).

C Acceleration

If the borrower is not in bankruptcy, the lender shall send the borrower notice that the loan is in default and the entire debt has been determined due and payable immediately after other servicing options have been exhausted. Foreclosure proceedings commence once a loan is accelerated.

The loan cannot be accelerated until after the borrower has been considered for Interest Assistance and the conclusion of mandatory mediation in accordance with § 762.149(a) (paragraph 356).

The lender will submit a copy of the acceleration notice or other document to the Agency.

357 Foreclosure and Acceleration (7 CFR 762.149) (Continued)**C Acceleration (Continued)**

The lender accelerates a loan note by giving the borrower written notice via certified mail that the loan is in default and the entire debt is due and payable. The lender must make a copy of the acceleration notice and attach it to the first FSA-1980-44 that is submitted following note acceleration. Once a note is accelerated, the borrower will have typically 30 calendar days from the date of acceleration to make payment in full by cash, transfer, sale of property, or voluntary conveyance. If the borrower fails to satisfy the account in the period specified in the notice, the foreclosure process will continue until the loan security is liquidated.

Once the note is accelerated all other servicing procedures other than liquidation and its associated actions, such as making protective advances, cease.

D Foreclosure

The lender is responsible for determining who the necessary parties are to any foreclosure action or who should be named on a deed of conveyance taken in lieu of foreclosure.

When the property is liquidated, the lender will apply the net proceeds to the guaranteed loan debt.

When it is necessary to enter a bid at a foreclosure sale, the lender may bid the amount that it determines is reasonable to protect its and the Agency's interest. At a minimum, the lender will bid the lesser of the net recovery value or the unpaid guaranteed loan balance.

Foreclosure refers to the comprehensive process of preparing for and selling the collateral that secures a loan that is being liquidated. Therefore, the foreclosure process begins once the lender decides to accelerate the loan in preparation for liquidation and ends once the loan's security is liquidated.

358 Lender Liquidation Plan (7 CFR 762.149(b))**A Overview**

Once the decision has been made to liquidate, the lender must submit a liquidation plan and, if applicable, a request for IA reimbursement to FSA within 30 calendar days. The liquidation plan must include a schedule of all projected liquidation activities, and a complete inventory of the security to be sold.

B General Requirements

If a default cannot be cured after considering servicing options and mediation, the lender will proceed with liquidation of the collateral in accordance with the following.

***--For SEL's and ALP and CLP lenders, within 30 days of the decision to liquidate, all--* lenders will submit a written plan to the Agency which includes:**

- **a current balance sheet from all liable parties or, if the parties are not cooperative, the best information available, or in liquidation bankruptcies, a copy of the bankruptcy schedules or discharge notice**
- **a proposed method of maximizing the collection of debt which includes specific plans to collect any remaining loan balances on the guaranteed loan after loan collateral has been liquidated, including possibilities for judgment**
- **If the borrower has converted loan security, the lender will determine whether litigation is cost effective. The lender must address, in the liquidation plan, whether civil or criminal action will be pursued. If the lender does not pursue the recovery, the reason must be documented when an estimated loss claim is submitted (subparagraph 360 E).**
- **Any proposal to release the borrower from liability will be addressed in the liquidation plan in accordance with § 762.146(c)(2) (paragraph 361).**

***--Note:** If according to paragraph 361 the release of liability can be approved, it will not be granted until either all of the collateral is voluntarily conveyed to the lender or it is liquidated.--*

358 Lender Liquidation Plan (7 CFR 762.149(b)) (Continued)**B General Requirements (Continued)**

- **an independent appraisal report on all collateral securing the loan that meets the requirements of § 762.127 (paragraphs 181 through 183) and a calculation of the net recovery value of the security as defined in §762.102 (Exhibit 10). The appraisal requirement may be waived by the Agency in the following cases:**
 - **the bankruptcy trustee is handling the liquidation and the lender has submitted the trustee's determination of value**
 - **the lender's proposed method of liquidation rarely results in receipt of less than market value for livestock and used equipment**
 - **a purchase offer has already been received for more than the debt.**
- **an estimate of time necessary to complete the liquidation**
- **an estimated loss claim if the liquidation period is expected to exceed 90 days (paragraph 359)**
- **an estimate of reasonable liquidation expenses**
- **an estimate of any protective advances (paragraph 360).**

C Liquidation Status Reports

Lenders must submit FSA-1980-44 to the Authorized Agency Official every 60 calendar days during liquidation to report on the progress of liquidation. This report should provide information on the disposition of collateral, costs incurred, and specific actions taken by the lender or their representative since the previous FSA-1980-44 submission.

Details on future planned actions and their estimated dates, must be identified on FSA-1980-44. Further, any changes in the approved liquidation plan must also be identified on FSA-1980-44. The Authorized Agency Official shall input the loan status information on FSA-1980-44 into the Guaranteed Loan System and monitor lender compliance with the 60-calendar-day reporting cycle for any loan in default until payment of a final loss claim.

D IA Reimbursement

IA payment will be conducted according to paragraph 228.

358 Lender Liquidation Plan (7 CFR 762.149(b)) (Continued)**E Lender Liquidation Plan and Holders**

If the guaranteed portion of a loan undergoing liquidation was sold on the secondary market, see Part 15.

If the holder has not requested the lender to repurchase the guarantee but the lender determines that repurchase of the guarantee is necessary to adequately service the loan, the lender may repurchase the guaranteed portion of the loan from the holder, with the written approval of FSA. See Part 15 for information on the repurchase of loans sold on the secondary market and FSA approval of repurchase.

If the loan undergoing liquidation was sold on the secondary market and the unpaid guaranteed portion is still held by the holder at the time of liquidation plan submission, the liquidation plan must address the lender's plans to repurchase the guarantee. If the lender does not plan to repurchase the guarantee, the liquidation plan must include written notice from the holder certifying that the holder wishes to keep the guarantee during liquidation. If the lender plans to repurchase the guarantee, the date of planned repurchase must be noted in the liquidation plan along with a request for FSA concurrence on the repurchase.

F FSA Approval of Liquidation Plan

[7 CFR 762.149(c)] CLP lender's or standard eligible lender's liquidation plan, and any revisions of the plan, must be approved by the Agency.

If, within 20 calendar days of the Agency's receipt of the liquidation plan, the Agency fails to approve it or fails to request that the lender make revisions, the lender may assume the plan is approved. The lender may then proceed to begin liquidation actions at its discretion as long as it has been at least 60 days since the borrower's eligibility for interest assistance was considered.

Upon receipt of the plan, FSA has 20 calendar days to respond in writing, either granting approval of the plan or requesting modification of the plan. The lender's liquidation plan must be submitted to the Authorized Agency Official. The Authorized Agency Official will receive the plan from the lender and notify the lender in writing of the decision to approve or request modification of the plan.

As part of a liquidation plan or a method for liquidation, the lender may propose to accept a deed from the borrower in lieu of a forced liquidation. The estimated loss claim will be based on the net recovery value of the property at the time the lender takes possession of it.

359 Lender Submission of Estimated Loss Claim (7 CFR 762.149)**A Overview**

An estimated loss claim will be submitted by the lender with the liquidation plan if the liquidation is expected to exceed 90 days. The estimated loss will be based on the following:

- the Agency will pay the lender the guaranteed percentage of the total outstanding debt, less the net recovery value of the remaining security, less any unaccounted for security
- the lender will discontinue interest accrual on the defaulted loan at the time the estimated loss claim is paid by the Agency. If the lender estimates that there will be no loss after considering the costs of liquidation, interest accrual will cease after 90 days from the decision to liquidate or an estimated loss of zero will be submitted.

See subparagraph 329 C for loss claims on restructured loans.

B Estimated Liquidation Expenses

Certain reasonable costs to liquidate a loan may be included in the estimated loss claim. Eligible liquidation expenses include, but are not limited to, the following:

- appraisals
- marketing expenses
- auctioneer expenses
- *--legal fees.

Note: Legal fees associated with the liquidation are a liquidation expense. FSA allows reasonable and necessary legal fees, including fees incurred in a Chapter 7 liquidation bankruptcy, to be deducted from the sale of the collateral before application of the net proceeds to the guaranteed debt. Lenders will be compensated for liquidation expenses incurred before the filing of a reorganization bankruptcy proceeding. An estimate of legal fees, and all liquidation costs, must be provided with an estimated loss claim, and documentation of actual expenses incurred must be provided with the final loss claim.--*

In-house expenses are not allowable liquidation costs. In-house expenses include, but are not limited to, the following:

- employee salaries
- staff lawyers
- photocopying
- travel.

359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)**C Lender Submission of Estimated Loss Claim**

Lenders will submit the estimated loss claim on RD-449-30 to the Authorized Agency Official and prepared according to the instructions attached to RD-449-30. Calculations and other documentation to support the figures and estimates used on RD-449-30 must be attached.

*--The lender's supporting documentation shall include the following:

- unpaid accrued interest
- advances
- payments
- periods of time
- interest rates
- principal balances.

SEL and CLP lenders will also be required to submit appraisals and other documentation to support the estimates on RD-449-30. Estimated loss claims for PLP lenders will only be reviewed for accuracy and calculations of RD 449-30.

The lender must justify and explain any liquidation expenses on the estimated loss claim in a separate memo submitted with the estimated loss claim. RD-449-30 FMI provides examples on how to complete certain fields.--*

D Unapproved Loans or Advances

The amount of any payments made by the borrower on unapproved loans or advances outside of the guarantee will be deducted from any loss claim submitted by the lender on the guaranteed loan, if that loan or advance was paid prior, and to the detriment of, the guaranteed loan.

E FSA Approval of Protective Advances

FSA will approve a request for a protective advance if the request is reasonable and the value of the security would decrease significantly if the advance was not made. FSA will respond within 14 calendar days to an SEL and CLP written request for concurrence on a protective advance. Concurrence with protective advances can be provided separately from approval of the liquidation plan.

PLP lenders will make protective advances according to FSA-1980-38.

359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)**F FSA Approval and Payment of Estimated Loss Claim**

The estimated loss claim may be reviewed and approved separately from the liquidation plan using FSA-1980-06. The estimated loss claim is submitted on RD-449-30 to the Authorized Agency Official. After reviewing RD-449-30, the Authorized Agency Official shall forward RD-449-30 and supporting documentation to SED with a recommendation to approve or dispute the estimated loss claim.

If SED finds the estimated loss claim to be accurate, SED shall approve the payment within 30 calendar days of estimated loss claim submission. If FSA wishes to dispute the estimated loss claim, FSA shall attempt to resolve the differences with the lender within 30 calendar days of the submission.

After approval by SED, SED shall forward RD-449-30 to the Finance Office for payment of *--the estimated loss claim. The mailing address for the Finance Office is:

Farm Service Agency
Loan Operations Division
P.O. Box 200003
St. Louis, MO 63120.

FAXes for States:

- 01-32 shall be sent to 314-539-3111
- 33-64 shall be sent to 314-539-6447.

The Finance Office shall issue a check to the lender within 30 calendar days of receiving RD-449-30. The PLP estimated loss claim will be paid after a brief review for accuracy.--*

359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)**G Application of Estimated Loss Payment**

*** * *** The lender will discontinue interest accrual on the defaulted loan at the time the estimated loss claim is paid by the Agency. If the lender estimates that there will be no loss after considering the costs of liquidation, interest accrual will cease 90 days after the decision to liquidate or an estimated loss of zero will be submitted.

***--**Interest may be paid in addition to the 90 calendar days allowed by this paragraph by the number of days the FSA review and approval of the claim extends beyond 30 calendar days when the delays were caused by FSA.

The estimated loss payment compensates the lender for the loss, but does not reduce the loan balance or cure a delinquency, and should not be reflected as such on FSA-1980-44.--*

360 Lender Submission of Final Loss Claim (7 CFR 762.149)**A Overview**

Lenders may submit a final loss claim when the security has been liquidated and all proceeds have been received and applied to the account.

B General Requirements

If a lender acquires title to property either through voluntary conveyance or foreclosure proceeding, the lender will submit a final loss claim after disposing of the property. The lender may pay reasonable maintenance expenses to protect the value of the property while it is owned by the lender. These may be paid as protective advances or deducted as liquidation expenses from the sales proceeds when the lender disposes of the property. The lender must obtain Agency written concurrence before incurring maintenance expenses which exceed the amounts allowed in § 762.149(e)(1) (subparagraph D).

The lender will make its records available to the Agency for the Agency's audit of the propriety of any loss payment.

The final loss claim will be based on the amount received from the sale of the property, less expenses incurred for its care and maintenance, assuming the lender has acted expeditiously and prudently to sell it.

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)**C Lender Submissions of Final Loss Claim**

All lenders will submit the following documents with a final loss claim:

- **an accounting of the use of loan funds**
- **an accounting of the disposition of loan security and its proceeds**
- **a copy of the loan ledger indicating loan advances, interest rate changes, protective advances, and application of payments, rental proceeds, and security proceeds, including a running outstanding balance total**

Note: The lender's supporting documentation shall include the following:

- unpaid accrued interest
- advances
- payments
- periods of time
- interest rates
- principal balances.
- **documentation, as requested by the Agency, concerning the lender's compliance with the requirements of this part**
- ***--the name, Social Security number, and current address of any co-borrower or co-signer for liquidation of loans that were made using FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date, if not previously submitted to the Agency.--***

See subparagraph 359 B for liquidation expenses and legal fees.

The lender will designate one or more financial institutions to which any Agency payments will be made via electronic funds transfer.

Lenders should also submit the EFT account number that is to be used for transmission of any loss payment from the Government.

The lender must justify and explain protective advances in a separate cover memo submitted with the final loss claim.

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)**D Protective Advances**

Protective advances are expenses incurred by a lender to protect or preserve collateral from loss or deterioration. Protective advances should be shown on RD-449-30.

Prior written authorization from the Agency is required for all protective advances in excess of \$5,000 for CLP lenders, \$3,000 for standard eligible lenders. The dollar amount of protective advances for PLP lenders will be specified when PLP status is awarded by the Agency or as contained in the Lender's Agreement.

Prior FSA written authorization of protective advances in excess of \$5,000 is required for PLP lenders with lender's agreements that provide that protective advances will be handled according to the provisions of 2-FLP.

The lender may claim recovery for the guaranteed portion of any loss of monies advanced as protective advances allowed in this part, plus interest that accrues on the protective advances.

Interest that accrues on protective advances is limited to the guaranteed loan interest accrual cutoff if the protective advance is used to pay off the lender's prior lien.

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)**D Protective Advances (Continued)**

Payment for protective advances is made by the Agency when the final loss claim is approved, except in bankruptcy actions.

Protective advances are used only when the borrower is in liquidation, liquidation is imminent, or when the lender has taken title to real property in a liquidation action.

Legal fees are not a protective advance.

Protective advances may only be made when the lender can demonstrate the advance is in the best interest of the lender and the Government.

Protective advances must constitute a debt of the borrower to the lender and be secured by the security instrument.

Protective advances must not be made in lieu of additional loans.

Protective advances approved by FSA may be made by a lender to protect or preserve the collateral from loss or deterioration. Additional loans made to improve the value of security, such as loans for home improvement, are not protective advances and should not be approved. Protective advances and the interest that accrues on the advances are covered by the guarantee.

E Legal Fees

Legal fees associated with liquidation are a liquidation expense, see subparagraph 359 B. Documentation of actual legal expenses incurred must be provided with the final loss claim.

F FSA Approval and Payment of Final Loss Claim

The Agency will notify the lender of any discrepancies in the final loss claim or, approve or reject the claim within 40 days. FSA officials may use FSA-1980-07 for this discrepancy review.

***--Note:** For loans made using FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date, before the payment of a final loss claim, FSA officials must have a copy of the original application, promissory note, FSA-1980-27, and the current interest rate if a variable rate loan.--*

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)**F FSA Approval and Payment of Final Loss Claim (Continued)**

The Agency will reduce a final loss claim based on its calculation of the dollar amount of loss caused by the lender's negligent servicing of the account. Loss claims may be reduced or rejected as a result of the following:

- **a loss claim may be reduced by the amount caused by the lender's failure to secure property after a default, and will be reduced by the amount of interest that accrues when the lender fails to contact the borrower or takes no action to cure the default, once it occurs**
- **losses incurred as a result of interest accrual during excessive delays in collection, as determined by the Agency, will not be paid**
- **unauthorized release of security proceeds, failure to verify ownership or possession of security to be purchased, or failure to inspect collateral as often as required to ensure its maintenance.**

Losses will not be reduced for the following:

- **servicing deficiencies that did not contribute materially to the dollar amount of the loss**
- **unaccounted for security, as long as the lender's efforts to locate and recover the missing collateral was equal to that which would have been expended in the case of an unguaranteed loan in the lender's portfolio.**

Default interest, late charges, and loan servicing fees are not payable under the loss claim.

The final loss will be the remaining outstanding balance after application of the estimated loss payment and the application of proceeds from the liquidation of the security. The lender will designate one or more financial institutions to which any Agency payments will be made via electronic funds transfer.

FSA shall pay the lender the guaranteed percentage of the unpaid balance remaining on the loan after liquidation and application of proceeds. To verify that the amount requested is valid, SED shall review the County Office loan file, the lender's loan ledgers, and, for PLP, the lender's loan file. If there are any discrepancies in the lender's application processing or loan servicing, the lender will be requested to provide clarification or explanation if the concern may have contributed to failure of the loan or caused a monetary loss. If security was not obtained as indicated on the application, the value will be deducted from the lender's claim, if that value is known or can be reasonably estimated. In the case of unaccounted for security that was not sold, traded, or explained in some manner, the value of the collateral will be deducted only to the extent that the actions of the lender contributed to its misplacement.

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)**F FSA Approval and Payment of Final Loss Claim (Continued)**

Interest accrual on a final loss should be the same as on the estimated loss except for the amount that accrued while the payment was being issued. If liquidation was completed as planned and the claim was timely submitted to FSA, additional interest may be paid for the number of calendar days over 40 that FSA took to review the claim up to the date of the check. If an estimated loss was not paid, SED shall determine whether the lender has liquidated the account in a timely manner. If liquidation was unduly delayed or the lender did not comply with the reporting requirements of this part, interest accrual will be included on the claim to the date that SED determines that liquidation should have reasonably been accomplished.

Interest accrual as part of a lender's final loss claim will never exceed 90 calendar days from the date of the decision to liquidate, plus any additional days over 40 calendar days that it took FSA to review the claim up to the date of the check, for all claims made after February 12, 1999, in which an estimated claim was not filed and the final claim was submitted within 90 calendar days of the date of the decision to liquidate.

If an estimated claim was not submitted and the final claim was submitted beyond 90 calendar days of the date of the decision to liquidate, interest accrual will not be paid beyond 90 calendar days from the date of the decision to liquidate for all claims made after February 12, 1999.

Interest accrual as part of a final claim will be the same as the estimated claim for all final claims in which an estimated claim was previously submitted.

FSA may pay a loss when a borrower sells security out of trust. If the borrower has converted loan security, the lender shall determine whether litigation is cost-effective. The lender must determine whether civil or criminal action is cost-effective and will be pursued. If the lender does not pursue the recovery, the reason must be documented when a loss claim is submitted. If recovery of converted security through legal action is possible, a lender may still submit a final loss claim and reimburse FSA according to subparagraph 362 A after proceeds are collected.

If a lender's loss claim is denied or reduced, SED shall notify the lender in writing immediately of the decision. Lenders may appeal this decision according to 1-APP.

When the final RD-449-30 is accepted by the Authorized Agency Official and approved by SED, SED shall forward RD-449-30 to the Finance Office for payment. The final loss claim will be paid up to the maximum amount allowed as provided in subparagraph 195 C. In the case of a loan that is a total loss, the loss payment may exceed the original guaranteed principal and accrued interest, if it includes emergency advances or protective advances.

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)**G Overpayment**

If the final loss is less than the estimated loss, the lender will reimburse the Agency for the overpayment plus interest at the note rate from the date of the estimated loss payment.

The lender's ledger provided with the final loss claim should reflect that since the estimated claim was paid, the following has occurred:

- application of liquidation proceeds net of expenses
- approved protective advances
- any voluntary payments
- no additional interest accrual except on protective advances.

The ledger should not reflect that the FSA-estimated loss claim was applied as a regular payment. The amount of overpayment or underpayment will be calculated on RD-449-30.

--The interest due on any loss claim will be calculated by KCFO, St. Louis based upon the borrower's rate of interest and the date the estimated claim was paid. If the lender wishes to submit a check with their request for a final loss claim, this amount may be obtained by contacting the KCFO, St. Louis technician before submitting RD-449-30.--

H Return of Guarantee

The lender will return the original Guarantee marked paid after receipt of a final loss claim.

The final loss claim payment will be sent by EFT whenever possible. Return of the Guarantee is not required before EFT or delivery of a check. After verification that the final loss claim has been paid, the account will be terminated in GLS.

361 Release of Liability After Liquidation (7 CFR 762.146(c))**A Overview**

--For loans made using FSA-1980-25 or FSA-1980-28 with the revision date before July 20, 2001, after a final loss claim has been paid, the lender may release the borrower or any guarantor from liability with FSA concurrence if the conditions of subparagraph B can be met.--

361 Release of Liability After Liquidation (7 CFR 762.146(c)) (Continued)***--B Loans Made Using FSA-1980-25 or FSA-1980-28 With a Revision Date Before July 20, 2001--***

After a final loss claim has been paid on the borrower's account, the lender may release the borrower or guarantor from liability if:

- the Agency agrees to the release in writing
- the lender documents its consideration of the following factors concerning the borrower or guarantors:
 - the likelihood that the borrower or guarantor will have a sufficient level of income in the reasonably near future to contribute to a meaningful reduction of the debt
 - the prospect that the borrower or guarantor will inherit assets in the near term that may be attached by the Agency for payment of a significant portion of the debt
 - whether collateral has been properly accounted for, and whether liability should be retained in order to take action against the borrower or a third party for conversion of security property
 - the availability of other income or assets which are not security
 - the possibility that assets have been concealed or improperly transferred
 - the effect of other guarantors on the loan
 - cash consideration or other collateral in exchange for the release of liability.

The lender will execute its own release of liability documents.

* * *

The lender will submit a narrative to the Authorized Agency Official explaining the borrower or entity should be released from liability. The Authorized Agency Official may ask for documentation to support the lender's argument. The Authorized Agency Official will forward all relevant material to SED for review and approval.

361 Release of Liability After Liquidation (7 CFR 762.146(c)) (Continued)***--C Loans Made Using FSA-1980-25 or FSA-1980-28 With the July 20, 2001, or Later Revision Date**

For loans made using FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date, release of liability can only be approved by DAFLP. The payment of a final loss claim on these loans established a Federal debt and is subject to offset. Collection of the Federal debt will be pursued according to 7 CFR 762.149(m). See paragraph 363.

SED's shall thoroughly evaluate all requests and forward them to DAFLP with their recommendation. All requests will include an analysis along with supporting documentation that includes a monetary analysis as to why such an exception is in the Government's best interest. DAFLP will evaluate each request on a case-by-case basis. DAFLP's decision is final and is not appealable.--*

362 Miscellaneous Liquidation Items (7 CFR 762.149)**A Future Recovery**

The lender will remit any recoveries made on the account after the Agency's payment of a final loss claim to the Agency in proportion to the percentage of guarantee in accordance with the Lender's Agreement until the account is paid in full or otherwise satisfied.

A lender receiving a loss payment must complete and return in a timely manner a report on its collection activities, FSA-1980-26, for each unsatisfied account for three years following payment of loss claims.

In late October of each year, the Authorized Agency Official will forward FSA-1980-26 with instructions to lenders that have received a loss claim because of liquidation in the past 3 years. FSA-1980-26 must be completed and returned by November 30.

Note: FSA-1980-26 will not be completed for Chapter 7 liquidation bankruptcy cases that have received a discharge.

SED shall compile the State's reports and submit the results to the National Office upon request.

*--When FSA's share of an amount is received, the funds will be deposited according to 3-FI. The following items will be completed on RD-449-30:

- enter code 4 in item 3A, "Report Type Code"
- enter the date funds were received in item 10, "Date of Settlement"
- enter the amount received in item 44, "Amount Due USDA by Lender".--*

362 Miscellaneous Liquidation Items (7 CFR 762.149) (Continued)**A Future Recovery (Continued)**

*--RD-449-30 will be FAXed or sent to KCFO, St. Louis as follows:

USDA/Farm Service Agency
Loan Operations Division
P.O. Box 200003
St. Louis, MO 63120

States 01 - 32 shall FAX to 314-539-3111.

States 33 - 64 shall FAX to 314-539-6447.

For loans made using FSA-1980-25 or FSA-1980-28 with a July 20, 2001, or later revision date, lenders may only issue IRS-1099-C on the unguaranteed portion of the debt once the lender has met its future recovery obligations.

Once FSA has concluded its collection efforts, then FSA will cancel any remaining debt and report to IRS accordingly.--*

B FSA Option to Liquidate

At its option, the Agency may liquidate the guaranteed loan as follows.

- **Upon Agency request, the lender will transfer to the Agency all rights and interests necessary to allow the Agency to liquidate the loan. The Agency will not pay the lender for any loss until after the collateral is liquidated and the final loss is determined.**
- **If the Agency conducts the liquidation, interest accrual will cease on the date the Agency notifies the lender in writing that it assumes responsibility for the liquidation.**

Upon the recommendation of SED, DAFLP may approve liquidation of a guaranteed loan by FSA.

The lender will transfer to FSA all rights and interest necessary to allow the Authorized Agency Official to liquidate the loan.

362 Miscellaneous Liquidation Items (7 CFR 762.149) (Continued)**B FSA Option to Liquidate (Continued)**

SED shall consult with OGC to answer questions relating to the assignment and transfer of the lender's loan documents to FSA. After the loan is transferred, the Authorized Agency Official shall summarize the history of case, list all of the loan security and its estimated value, and address any other issues that SED or OGC have regarding the liquidation. SED shall refer the case to OGC to process the request for liquidation by the Government. SED shall send RD-1980-45 to the Finance Office, and the Authorized Agency Official shall oversee the liquidation. If requested by the lender, FSA shall provide an update on the liquidation proceedings. Interest accrual will stop when FSA notifies the lender in writing that FSA is assuming responsibility of the liquidation process. The final loss payment to the lender will not include interest beyond the date FSA took responsibility to liquidate. In this event, the lender is not paid for any loss until the collateral is liquidated and the final loss is determined.

***--363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m))**

A Establishment of a Federal Debt

[7 CFR 762.149(m)] Any amounts paid by the Agency on account of liabilities of the guaranteed loan borrower will constitute a Federal debt owing to the Agency by the guaranteed loan borrower. In such case, the Agency may use all remedies available to it, including offset under the Debt Collection Improvement Act of 1996 (DCIA), to collect the debt from the borrower. Interest charges will be established at the note rate of the guaranteed loan on the date that the final loss claim is paid.

Federal debt is established on the effective date of the final loss claim payment. All individuals liable for the debt will be subject to offset. FSA will use non-centralized administrative offset, including IAO of payments made by USDA, and centralized offset from the U.S. Department of Treasury's TOP, and by any other applicable debt collection methods to collect the debt owed to FSA.

FSA shall obtain copies of the promissory note, the original application, the loan guarantee, the final loss claim, and current interest rate as of the final loss payment date, if a variable rate loan, as documentation of the establishment of a Federal debt.

The Authorized Agency Official shall ensure that all co-borrowers and co-signers are entered in GLS.--*

***--363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m)) (Continued)**

B Guaranteed Final Loss Claim Payments Not Subject to Offset

Final loss claim payments for borrowers who executed FSA-1980-25 with a revision date of July 27, 1999, or earlier, or FSA-1980-28 with a revision date of April 7, 1999, or earlier, shall not be offset.

Loans approved using FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date, that are discharged in bankruptcy will establish a Federal debt, but are not subject to offset.

Notes: Any debt reaffirmed under Chapter 7 bankruptcy on which a final loss claim is later paid, is considered a Federal debt and shall be subject to offset.

In a reorganization bankruptcy, if the confirmed plan is not successfully completed and the bankruptcy is dismissed, the payment of a final loss claim will be considered a Federal debt and shall be subject to offset.

C Payments Not Subject to Offset

The following payments are not subject to offset:

- Federal crop insurance indemnity payments
- the initial payment for planting expenses under certain conservation programs
- program payments ineligible for offset.

Payments will not be offset when the Authorized Agency Official determines that it is not in the best interest of the Government.

D Debtor Notification of FSA's Intent to Offset

Immediately upon confirmation of a final loss claim payment, the Authorized Agency Official shall provide the debtor and any co-debtors notification of intent to offset using Exhibit 17, according to this subparagraph and 7 CFR Part 3.

Exhibit 17 must be sent to debtors by certified mail. If Exhibit 17 is returned, the Authorized Agency Official shall use first class mail or personal delivery.

The date Exhibit 17 was received by the debtor and/or co-debtor will be entered in GLS for:

- tracking
- referral of debt for offset.--*

***--363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m)) (Continued)**

D Debtor Notification of FSA's Intent to Offset (Continued)

The Authorized Agency Official shall provide written notification to debtors a minimum of:

- 30 calendar days before affecting non-centralized administrative offset and IAO
- 60 calendar days before affecting TOP.

If a USDA payment will be made to a debtor within 30 calendar days of the payment of a final loss claim and FSA finds that failure to take the offset would substantially prejudice the Government's ability to collect the debt, FSA shall notify the debtor that FSA will/has offset the payment due using Exhibit 18.

Exhibit 18 shall:

- contain the reasons FSA had to affect IAO and non-centralized administrative offset
- be sent to the debtor as soon as possible.

The debtor's pro rata share of entity payments will be offset according to 7 CFR Part 3 and RD Instruction 1951-C, section 1951.106 after the nondebtor entity members have been notified using Exhibit 19 or 20, as appropriate.

Note: The Authorized Agency Official shall request written concurrence from SED before sending Exhibit 20.

Authorized Agency Officials shall follow RD Instruction 1951-C, paragraphs 1951.103 (c) through (g) to handle debtor requests received as a result of the receipt of Exhibits 17 through 20.

Debtors proposing an agreement to repay the debt as an alternative to offset must include the full amount of the Federal debt. The Federal debt must be paid within a short period of time.

E Salary Offset

The Authorized Agency Official shall determine whether collection by salary offset is feasible according to 7 CFR Part 3 and RD Instruction 1951-C, paragraph 1951.111.

F Referral of Debt for IAO Offset

The Authorized Agency Official shall refer debtors:

- immediately for IAO and non-centralized administrative offset if Exhibit 18 or 20 was sent
- for IAO and non-centralized administrative offset 30 calendar days after sending Exhibit 17 or 19, and/or after the conclusion of a review or appeal.--*

***--363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m)) (Continued)**

F Referral of Debt for IAO Offset (Continued)

The Authorized Agency Official must complete the debtor's IAO referral information in GLS for the debt to be referred for offset.

Note: Debtors who are ineligible for IAO or who later become ineligible for IAO shall be removed from referral in GLS.

G Referral of Debt to TOP

The State Office official shall refer debtors to TOP 60 calendar days after:

- Exhibit 17 or 18 was sent
- the conclusion of a review or appeal.

The State Office official must complete the debtor's TOP referral information in GLS. Once the information is entered, debtors will be programmatically referred according to the established Treasury quarterly referral schedule.

Once the debt is referred for TOP, KCFO, St. Louis will send Exhibit 21. The date of Exhibit 21 will be shown on the debtor's GLS maintenance screen.

Note: Debtors who are ineligible for TOP or who later become ineligible for TOP shall be removed from referral on the GLS maintenance screen.

H State Office Responsibility

SED shall ensure that FSA employees responsible for servicing FLP guaranteed loans notify all County Offices where the debtor receives Federal payments that these payments are to be offset.

DD shall ensure that all County Offices are updated monthly on debtors whose payments are eligible to be offset.

Note: Management reports for debts currently referred for IAO and TOP are available in GLS.--*

***--363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m)) (Continued)**

I Collections and Refunds

Amounts collected through administrative offset will be applied to the debtor's account according to 3-FI using the Guaranteed Collection Codes in this table.

Code	Description
70	Administrative Offset – Other
71	Administrative Offset – DCP
72	Administrative Offset – LCP
73	Administrative Offset – CRP
74	Administrative Offset – EQIP
75	Administrative Offset – Tobacco
76	Administrative Offset – Peanuts
77	Administrative Offset – Rice
78	Administrative Offset – LDP/Markt Asst Loan
79	Administrative Offset – DCP in Stay
80	Voluntary Collection
81	DOJ Collection
82	Debt Settlement Collection
83	Other Collection

Notes: Collections will be applied to the oldest delinquent Federal debt first.

According to 58-FI, paragraph 164, delinquent debts due to FSA will be collected before an assignment is honored.

Refunds of amounts offset will be made within 45 calendar days if FSA determines that an amount should not have been offset or that the debtor has prevailed in an appeal. SED shall approve and submit refund requests to KCFO, LOD, St. Louis.

J Notifying Lender of FSA Collections

County Offices shall notify the lender of any collections received through IAO or TOP by November 30 of each year. The annual notification shall include the following:

- amount collected by loan number
- current balance of the Federal debt.

Note: County Offices can obtain account information from the GLS loan offset view screen.--*

***--363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m)) (Continued)**

K Debt Settlement

Once a final loss claim is paid, FSA will be able to consider settlement offers received directly from the debtor. Compromise and adjustment offers should be compared against other collection options available, such as IAO and TOP. The option that offers the greatest recovery to the Government should be pursued.

FSA shall process a compromise or adjustment offer according to RD Instruction 1956-B, section 1956.66.

The debt settlement will only cover the Federal debt owed by the debtor. FSA shall notify the lender of the approval of a debt settlement.

After all payments under the compromise or adjustment offer have been received, the remaining balance of the debt will be written off. SED shall FAX or mail a copy of RD-1956-1 along with a memorandum requesting that the debt be written off to KCFO, St. Louis.

L Bankruptcy Effect

FSA, subject to advice provided by the Regional OGC, will immediately file a proof of claim upon notification of a bankruptcy filing for any debtor subject to offset. At a minimum, the following shall be filed with the proof of claim as evidence of the debt:

- FSA-1980-25 or FSA-1980-28
- FSA-1980-27
- copy of the promissory note
- documentation of FSA's final loss claim payment to the lender.

Bankruptcy filing will halt any FSA offsetting actions. The debtor shall be removed from referral of IAO and TOP through the GLS maintenance screens.

Debts discharged in bankruptcy will be written off upon receipt of the discharge order. SED shall FAX or mail a copy of the discharge order along with a memorandum requesting that the debt be written off to KCFO, St. Louis.

M Write Off of Debt When the Debtor Is Released From Liability by DAFLP

Debtors released from liability under subparagraph 361 C will have their outstanding debt written off. SED shall FAX or mail a copy of DAFLP approval along with a memorandum requesting that the debt be written off to KCFO, St. Louis.--*

364-372 (Reserved)

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation and Wetland Conservation Certification		69.5, 208
FEMA-81-93	Standard Flood Hazard Determination Form		138
FmHA-449-34	Loan Note Guarantee		281, 267
FmHA 1940-3 ^{1/}	Request for Obligation of Funds Guaranteed Loans		230
FSA-431-2	Farm and Home Plan		72
FSA-440-32	Request for Statement of Debts and Collateral		69.6, 152
FSA-1940-3	Request for Obligation of Funds Guaranteed Loans		230
FSA-1940-10	Cancellation of U.S. Treasury Check and/or Obligation		249
FSA-1980-01	Lender's Processing Checklist		69, 95
FSA-1980-02	Guaranteed Loan Processing Checklist		69
FSA-1980-03	Annual File Review Checklist for SEL and CLP Lenders		267
FSA-1980-04	Annual File Review Checklist for PLP Lenders		267
FSA-1980-05	Debt Writedown Review Checklist		329
FSA-1980-06	Guaranteed Estimated Loss Review Checklist for SEL and CLP Lenders		342, 359
FSA-1980-07	Guaranteed Loan Final Loss Review Checklist		360
FSA-1980-15	Conditional Commitment		Text
FSA-1980-22	Lender Certification		247
FSA-1980-24	Request for Interest Assistance Payment		228, 326
FSA-1980-25	Application for Guarantee		Text

^{1/} This form is obsolete.

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-1980-26	Report on Collection Activities on Liquidated Accounts		266, 362
FSA-1980-27	Loan Guarantee		247, 248, 250, 267, 281, 360, 363, 373, 374, 376
FSA-1980-28	Preferred Lender Application for Guarantee		Text
FSA-1980-36	Assignment of Guarantee		373-375
FSA-1980-37	FSA Purchase of a Guaranteed Loan Portion		375
FSA-1980-38	Lender's Agreement		Text
FSA-1980-41	Guaranteed Farm Loan Status Report as of		266, 355, 376
FSA-1980-42	Notice of Substitution of Lender (Transaction 4034)		287
FSA-1980-44	Guaranteed Farm Loan Default Status Report		266, 300, 313, 314, 326, 329, 355, 357-359
FSA-1980-48	Request for Restructuring Guaranteed Loans		313
FSA-1980-49	Guaranteed Loan Status Update Adjustment (Transaction 4048)		288
FSA-1980-64	Interest Assistance Agreement		224, 225, 227, 228, 230, 231, 287
FSA-1980-84	Modification of Loan Guarantee		281, 313, 326
FSA-1980-86	Notification of Transfer and Assumption of a Guaranteed Loan Transaction Code 4037		281
FSA-1980-88	Farm Loan Programs Guaranteed Writedown Worksheet		328
FSA-1980-89	Shared Appreciation Agreement for Guaranteed Loans		181, 288, 328, 341
IRS-1099-C	Cancellation of Debt		362
IRS-8379	Injured Spouse Claim and Allocation		Ex. 17, 18
RD-449-30	Loan Note Guarantee Report of Loss		136, 288, 328, 342, 344, 355, 360, 362, 376

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
RD-1910-5	Request for Verification of Employment		69.6, 152
RD-1940-3 1/	Request for Obligation of Funds Guaranteed Loans		226, 230, 244, 245, 326
RD-1951-C-1	Notice of Intent to Collect by Administrative Offset		376
RD-1956-1	Application for Settlement of Indebtedness		363
RD-1980-7	Notification of Transfer and Assumption of a Guaranteed Loan		281
RD-1980-19	Guaranteed Loan Closing Report		227, 247, 249, 286
RD-1980-43	Lender's Guaranteed Loan Payment to USDA		376
RD-1980-45	Notice of Liquidation Responsibility		362
RD-1980-47	Guaranteed Loan Borrower Adjustments		281, 284, 288
W-2	Wage and Tax Statement		152

1/ This form is obsolete.

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM

Approved Abbreviation	Term	Reference
ADPB	average daily principal balance	228
ALP	Approved Lender Program	34
BCIS	Bureau of Citizenship and Immigration Services	Ex. 7, 8
CLP	Certified Lender Program	Text
CMS	Credit Management System	52-54, 151, 262, 287
CONACT	Consolidated Farm and Rural Development Act	108
DCIA	Debt Collection Improvement Act of 1996	363, Ex. 17, 18
ECOA	Equal Credit Opportunity Act	31, 210
EE	economic emergency loan	108
EFT	Electronic Funds Transfer	360
EIS	Executive Information System	84

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM (Continued)

Approved Abbreviation	Term	Reference
EL	emergency livestock loan	108
EM	emergency loans	108, 138, 244
EO	economic opportunity loan	108
FmHA	Farmer's Home Administration (formerly by FSA)	108
FMI	Forms Manual Inserts	226, 328, 359, 362
FO	farm ownership loan	Text
GLS	Guaranteed Loan System	Text
IA	interest assistance	Text
IAO	Internal Administrative Offset	363, Ex. 2, 17, 18
INA	Immigration and Nationality Act	Ex. 7
INS	Immigration and Naturalization Service	108
LOC	line of credit	Text
MOU	Memorandum of Understanding	Ex. 16
OL	operating loan	Text, Ex. 2
PLP	Preferred Lender Program	Text
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 2, 7
RHF	Rural Housing for farm service buildings	108
RL	recreation loan	108
SAA	Shared Appreciation Agreement	286, 288
SEL	Standard Eligible Lender	Text
SW	soil and water loan	49, 50, 52, 108, 244, 281, 326
TOP	Treasury Offset Program	363, Ex. 2, 17, 18, 21
USPAP	Uniformed Standards of Professional Appraisal Practice	181, 183, 267

Redelegations of Authority

This table lists the redelegations of authority in this handbook.

Redelegation	Reference
Administering handbook provisions	20

Definitions of Terms Used in This Handbook

Additional Security

Additional security is collateral in excess of that needed to fully secure the loan.

Allonge

Allonge is an attachment or an addendum to a note.

Applicant

For guaranteed loans, the lender requesting a guarantee is the applicant. The party applying to the lender for a loan will be considered the loan applicant.

Approval Official

An approval official is the FSA official authorized to approve a loan or servicing request. The official is determined depending on the dollar limitations and other conditions applicable to a particular action.

Aquaculture

Aquaculture is the husbandry of aquatic organisms in a controlled or selected environment. An aquatic organism is any fish, amphibian, reptile, or aquatic plant. An aquaculture operation is considered to be a farm only if it is conducted on the grounds which the loan applicant owns, leases, or has an exclusive right to use. An exclusive right to use must be evidenced by a permit issued to the loan applicant and the permit must specifically identify the waters available to be used by the loan applicant only.

Assignment of Guaranteed Portion

Assignment of guaranteed portion is the process by which the lender transfers the right to receive payments or income on the guaranteed loan to another party, usually in return for payment in the amount of the loan's guaranteed principal. The lender retains the unguaranteed portion in its portfolio and receives a fee from the purchaser or assignee to service the loan, and receive and remit payments according to a written assignment agreement. This assignment can be reassigned or sold multiple times.

*--Authorized Agency Official

The Authorized Agency Official is the FSA official that is authorized to perform specific tasks related to loan making or servicing. The appropriate official is determined by inherent authorities or delegations applicable to a particular task.--*

Definitions of Terms Used in This Handbook (Continued)

Average Farm Customers

Average farm customers are those conventional farm borrowers who are required to pledge their crops, livestock, and other chattel and real estate security for the loan. This does not include high-risk farmers with limited security and management ability who are generally charged a higher interest rate by conventional agricultural lenders. Also, this does not include low-risk farm customers who obtain financing on a secured or unsecured basis, who have as collateral items such as savings accounts, time deposits, certificates of deposit, stocks and bonds, and life insurance which they are able to pledge for the loan.

Basic Security

Basic security is all farm machinery, equipment, vehicles, foundation and breeding livestock herds and flocks, including replacements, and real estate which serves as security for a loan guaranteed by the Agency. With respect to livestock herds and flocks, animals that are sold as a result of the normal culling process are basic security unless the borrower has replacements that will keep numbers and production up to planned levels. However, if a borrower plans to make a significant reduction in his or her basic livestock herd or flocks, the animals that are sold in making this reduction will be considered basic security.

Beginning Farmer or Rancher

A beginning farmer or rancher is an individual or entity who:

- meets the loan eligibility requirements for OL or FO assistance, as applicable
- has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 years; this requirement applies to all members of an entity
- will materially and substantially participate in the operation of the farm or ranch

Notes: In the case of a loan made to an individual, individually or with the immediate family, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the county or State where the farm is located.

Definitions of Terms Used in This Handbook (Continued)

Beginning Farmer or Rancher (Continued)

In the case of a loan made to an entity, all members must materially and substantially participate in the operation of the farm or ranch. Material and substantial participation requires that the individual provide some amount of the management, or labor and management necessary for day-to-day activities, such that if the individual did not provide these inputs, operation of the farm or ranch would be seriously impaired.

- agrees to participate in any loan assessment, and financial management programs required by Agency regulations
- **except for applicants for OL, does not own real farm or ranch property or who, directly or through interests in family farm entities owns real farm or ranch property, the aggregate acreage of which does not exceed 30 percent of the average farm or ranch acreage of the farms or ranches in the county where the property is located**

Note: * * *

If the farm is located in more than one county, the average farm acreage of the county where the loan applicant's residence is located will be used in the calculation. If the loan applicant's residence is not located on the farm or if the loan applicant is an entity, the average farm acreage of the county where the major portion of the farm is located will be used. The average county farm or ranch acreage will be determined from the most recent Census of Agriculture developed by the U.S. Department of Commerce, Bureau of the Census or USDA.

- **demonstrates that the available resources of the loan applicant and spouse (if any) are not sufficient to enable the loan applicant to enter or continue farming or ranching on a viable scale**
- **in the case of an entity:**
 - **all the members are related by blood or marriage**
 - **all the stockholders in a corporation are qualified beginning farmers or ranchers.**

Definitions of Terms Used in This Handbook (Continued)**Borrower**

A borrower is an individual or entity which has outstanding obligations to the lender under any Agency loan program. A borrower includes all parties liable for Agency debt, including collection-only borrowers, except those whose total loan and accounts have been voluntarily or involuntarily foreclosed or liquidated, or who have been discharged of all Agency debt.

Cash Flow Budget

Cash flow budget is a projection listing all anticipated cash inflows (including all farm income, nonfarm income and all loan advances) and all cash outflows (including all farm and nonfarm debt service and other expenses) to be incurred by the borrower during the period of the budget. Cash flow budgets for loans under \$125,000 do not require income and expenses itemized by categories. A cash flow budget may be completed either for a 12 month period, a typical production cycle or the life of the loan, as appropriate. It may also be prepared with a breakdown of cash inflows and outflows for each month of the review period and includes the expected outstanding operating credit balance for the end of each month. The latter type is referred to as a “monthly cash flow budget”.

***--Centralized Offset**

Centralized offset is the referral of a debt to the Treasury Offset Program (TOP) for offset of payments made to a debtor by Federal Agencies other than USDA.--*

Collateral

Collateral is property pledged as security for a loan to ensure repayment of an obligation.

Conditional Commitment

A conditional commitment is the Agency's commitment to the lender that the material it has submitted is approved subject to the completion of all conditions and requirements contained therein.

Definitions of Terms Used in This Handbook (Continued)**Consolidation**

Consolidation is the combination of outstanding principal and interest balance of two or more OL loans.

Controlled

Controlled is when a director or employee has more than a 50 percent ownership in the entity or, the director or employee, together with relatives of the director or employee, have more than a 50 percent ownership.

Cooperative

A cooperative is an entity which has farming as its purpose and whose members have agreed to share the profits of the farming enterprise. The entity must be recognized as a farm cooperative by the laws of the State in which the entity will operate a farm.

Cosigner

A consigner is a party who joins in the execution of a promissory note to assure its repayment. The cosigner becomes jointly and severally liable to comply with the terms of the note. In the case of an entity loan applicant, the cosigner cannot be a member, partner, joint operator, or stockholder of the entity.

County Average Yield

The county average yield is the historical average yield for a commodity in a particular political subdivision, as determined or published by a government entity or other recognized source.

Debt Writedown

A debt writedown is to reduce the amount of the borrower's debt to that amount that is determined to be collectible based on an analysis of the security value and the borrower's ability to pay.

Deferral

A deferral is a postponement of the payment of interest or principal or both. Principal may be deferred in whole or in part, interest may only be partially deferred.

Definitions of Terms Used in This Handbook (Continued)**Direct Loan**

A direct loan is a loan serviced by the Agency as lender.

Due Diligence

Due diligence is the process of evaluating real estate as part of a financing application to determine the presence of contamination from release of hazardous substances, petroleum products, or other environmental hazards and determining what effect, if any, the contamination has on the regulatory status or security value of the property.

Entities

Entities are cooperatives, corporations, partnerships, joint operations, trusts or limited liability companies.

Family Farm

A family farm is a farm which:

- produces agricultural commodities for sale in sufficient quantities so that it is recognized in the community as a farm rather than a rural residence
- provides enough agricultural income by itself, including rented land, or together with any other dependable income, to enable the borrower to:
 - pay necessary family living and operating expenses
 - maintain essential chattel and real property
 - pay debts

Definitions of Terms Used in This Handbook (Continued)**Family Farm (Continued)**

- is managed by:
 - the borrower when a loan is made to an individual
 - the members, stockholders, partners, or joint operators responsible for operating the farm when a loan is made to a cooperative, corporation, partnership, or joint operation
- has a substantial amount of the labor requirements for the farm and nonfarm enterprise provided by:
 - the borrower's immediate family
 - the members, stockholders, partners, or joint operators responsible for operating the farm when a loan is made to a cooperative, corporation, partnership, or joint operation
- uses or may use a reasonable amount of full-time hired labor and seasonal labor during peak loan periods.

Family Living Expenses

Family living expenses are any withdrawals from income to provide for needs of family members.

Family Members

Family members are the immediate members of the family residing in the same household with the individual borrower, or, in the case of an entity, with the operator.

Farm

A farm is a tract or tracts of land, improvements, and other appurtenances considered to be farm property which is used or will be used in the production of crops, livestock, and aquaculture products for sale in sufficient quantities so that the property is recognized as a farm rather than a rural residence. The term "farm" also includes any such land, improvements and facilities used in a nonfarm enterprise. It may also include a residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

Definitions of Terms Used in This Handbook (Continued)**Feasible Plan**

--A plan is feasible when a borrower or applicant's cash flow budget indicates that there is sufficient cash inflow to pay all cash outflow each year during the term of the loan. If a loan approval or restructuring action exceeds one production cycle and the planned cash flow budget is atypical due to cash or inventory on hand, new enterprises, carryover debt, atypical planned purchases, important operating changes, or other reasons, a cash flow budget must be prepared that reflects a typical cycle. If the request is for only 1 cycle, a feasible plan for only 1 cycle is required for approval.--

Financially Viable Operation

A financially viable operation is one which, with Agency assistance, is projected to improve its financial condition over a period of time to the point that the operator can obtain commercial credit without further Agency direct or guaranteed assistance. A borrower that will meet the Agency classification of "commercial," as defined in Agency Instruction 2006-W, available in any Agency office, will be considered to be financially viable. Such an operation must generate sufficient income to:

- meet annual operating expenses and debt payments as they become due**
- meet basic family living expenses to the extent they are not met by dependable nonfarm income**
- provide for replacement of capital items**
- provide for long-term financial growth.**

Fish

A fish is any aquatic, gilled animal commonly known as "fish" as well as mollusks, or crustaceans (or other invertebrates) produced under controlled conditions (that is, feeding, tending, harvesting, and such other activities as are necessary to properly raise and market the products) in ponds, lakes, streams, artificial enclosures, or similar holding areas.

Fixture

A fixture is an item of personal property attached to real estate in such a way that it cannot be removed without defacing or dismantling the structure, or substantially damaging the structure itself.

Definitions of Terms Used in This Handbook (Continued)**FSA**

FSA is the United States of America, acting through the Farm Service Agency, an agency of the United States Department of Agriculture. References to the National Office, Finance Office, State Office, County Office, District Office, SED, DD, local credit officer, or other FSA offices or officials should be read as prefaced by “FSA.”

Graduation

Graduation is the Agency’s determination that a borrower of a direct loan is financially stable enough to refinance that loan with a commercial lender with or without a guarantee.

Guaranteed Loan

A guaranteed loan is a loan made and serviced by a lender for which the Agency has entered into a Lenders Agreement and for which the Agency has issued a Loan Note Guarantee. This term also includes lines of credit except where otherwise indicated.

Hazard Insurance

Hazard insurance includes fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, builder’s risk, public liability, property damage, flood or mudslide, workers compensation, or any similar insurance that is available and needed to protect the security, or that is required by law.

***--Historic Property**

Historic property is a prehistoric or historic district, site, building, structure, or object, including artifacts and records, included in or eligible for inclusion in the National Register of Historic Places.--*

Holder

A holder is the person or organization other than the lender who holds all or a part of the guaranteed portion of an Agency guaranteed loan but who has no servicing responsibilities. When the lender assigns a part of the guaranteed loan to an assignee by way of execution of an assignment form, the assignee becomes a holder.

In-House Expenses

In-house expenses are expenses associated with credit management and loan servicing by the lender and lender’s contractor. In-house expenses include, but are not limited to: employee salaries, staff lawyers, travel, supplies, and overhead.

Definitions of Terms Used in This Handbook (Continued)**Interest Assistance Agreement**

The interest assistance agreement is the signed agreement between the Agency and the lender setting forth the terms and conditions of the interest assistance.

Interest Assistance Anniversary Date

The interest assistance anniversary date is the date on which interest assistance reviews and claims will be effective. This date is established by the lender. Once established, it will not change unless the loan is restructured.

Interest Assistance Review

The interest assistance review is the yearly review process that includes an analysis of the borrower or applicant's farming operation and need for continued interest assistance, completion of the needs test and request for continuation of interest assistance.

***--Internal Administrative Offset (IAO)**

IAO is a non-centralized administrative offset between a USDA creditor agency and a USDA payment authorizing agency.--*

Joint Operation

A joint operation is individuals that have agreed to operate a farm or farms together as a business unit. The real and personal property may be owned separately or jointly by the individuals.

Land Development

Land development is items such as terracing, clearing, leveling, fencing, drainage and irrigation systems, ponds, forestation, permanent pastures, perennial hay crops, basic soil amendments, and other items of land improvements which conserve or permanently enhance productivity.

Lender

A lender is the organization making and servicing the loan or advancing and servicing the line of credit which is guaranteed under the provisions of Agency regulations. The lender is also the party requesting a guarantee.

Lender's Agreement

A lender's agreement is the appropriate Agency form executed by the Agency and the lender setting forth the loan responsibilities of the lender and agency when the Loan Guarantee is issued.

Definitions of Terms Used in This Handbook (Continued)**Lien**

A lien is a legally enforceable hold or claim on the property of another obtained as security for the repayment of indebtedness or an encumbrance on property to enforce payment of an obligation.

Liquidation Expenses

Liquidation expenses are the cost of an appraisal, environmental assessment, outside attorney fees and other costs incurred as a direct result of liquidating the security for the guaranteed loan. Liquidation fees do not include in-house expenses.

Loan/Line of Credit Agreement

A loan/line of credit agreement is a document which contains certain lender and borrower agreements, conditions, limitations, and responsibilities in a process of credit extension and acceptance in a loan format where loan principal balance may fluctuate throughout the term of the document.

Loan Applicant

A loan applicant is the party applying to a lender for a guaranteed loan or line of credit.

Loan Transaction

A loan transaction is any loan approval or servicing action.

Loss Claim

A loss claim is a request made to the Agency by a lender to receive a reimbursement based on a percentage of the lender's loss on a loan covered by an Agency guarantee.

Loss Rate

The loss rate is the net amount of guaranteed OL, FO, and SW loss claims paid on loans made in the past 7 years divided by the total loan amount of OL, FO, and SW made in the past 7 years.

Major Deficiency

Major deficiency is a deficiency that directly affects the soundness of the loan.

Definitions of Terms Used in This Handbook (Continued)**Majority Interest**

Majority interest is any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation, joint operation, or partnership.

Market Placement Program

A market placement program is a program designed to place direct loan applications that are eligible for a loan guarantee with commercial lenders participating in, or eligible for, the guaranteed loan program.

Market Value

Market value is the amount that an informed and willing buyer would pay an informed and willing, but not forced, seller in a completely voluntary sale.

Minor Deficiency

A minor deficiency is a deficiency that violates Agency regulations, but does not affect the soundness of a loan.

Mortgage

A mortgage is an instrument giving the lender a security interest or lien on real or personal property of any kind.

Negligent Servicing

Negligent servicing is the failure to perform those services which would be considered normal industry standards of loan management or failure to comply with any servicing requirement of this subpart or the lenders agreement or the guarantee. The term includes the concept of a failure to act or failure to act timely consistent with actions of a reasonable lender in loan making, servicing, and collection.

Net Recovery Value

Net recovery value is the market value of the security property assuming that it will be acquired by the lender, and sold for its highest and best use, less the lender's costs of property acquisition, retention, maintenance, and liquidation.

***--Non-Centralized Administrative Offset**

Non-centralized administrative offset is an agreement between a USDA creditor agency and a payment authorizing agency to offset the payments made by the payment authorizing agency to satisfy a USDA debt. An internal administrative offset is a type of non-centralized administrative offset.--*

Definitions of Terms Used in This Handbook (Continued)

Nonessential Assets

Nonessential assets are **assets in which the borrower has an ownership interest that do not contribute an income to pay essential family living expenses or maintain a sound farming operation, and are not exempt from judgment creditors.**

Normal Income Security

Normal income security is **all security not considered basic security.**

Partial Release

Partial release is the release of a portion of the security used as collateral for a loan, usually accomplished by the sale of the property.

Participation

Participation is a loan arrangement where a primary or lead lender is typically the lender of record but the loan funds may be provided by one or more other lenders due to loan size or other factors. Typically, participating lenders share in the interest income or profit on the loan based on the relative amount of the loan funds provided after deducting the servicing fees of the primary or lead lender.

Partnership

Partnership is any entity consisting of two or more individuals who have agreed to operate a farm as one business unit. The entity must be recognized as a partnership by the laws of the State in which the entity will operate and be authorized to own both real estate and personal property and to incur debts in its own name.

Present Value

Present value is the present worth of a future stream of payments discounted to the current date.

Presidentially-Designated Emergency

A Presidentially-designated emergency is a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

Primary Security

Primary security is the minimum amount of collateral needed to fully secure a proposed loan.

Definitions of Terms Used in This Handbook (Continued)

Principals of Borrowers

Principals of borrowers includes owners, officers, directors, entities and others directly involved in the operation and management of a business.

Protective Advances

Protective advances are advances made by a lender to protect or preserve the collateral itself from loss or deterioration. Protective advances include but are not limited to:

- payment of delinquent taxes
- annual assessments
- ground rents
- hazard insurance premiums against or affecting the collateral
- harvesting costs
- other expenses needed for emergency measures to protect the collateral.

Purchase Money Interest

Purchase money interest is a component of UCC dealing with security and lien position. A lender providing for a crop or a particular piece of equipment can frequently have first position on that item despite other financing statements in place.

Qualified Alien

Qualified alien, as defined under PRWORA (8 U.S.C. 1641), is:

- an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act
- an alien who is granted asylum under section 208 of PRWORA
- a refugee who is admitted to the United States under section 207 of PRWORA
- an alien who is paroled into the United States under section 212(d)(5) of PRWORA for a period of at least 1 year
- an alien whose deportation is being withheld under section 243(h) of PRWORA
- an alien who is granted conditional entry according to section 203(a)(7) of PRWORA as in effect before April 1, 1980
- an alien who is a Cuban/Haitian Entrant as defined by section 501(e) of the Refugee Education Assistance Act of 1980
- an alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act.

Definitions of Terms Used in This Handbook (Continued)

Reamortization

Reamortization is to rewrite the rates or terms of a loan made for real estate purposes.

Recapture

Recapture is the amount that a guaranteed lender is entitled to recover from a guaranteed loan borrower in consideration for writing down a portion of their guaranteed loan debt when that loan was secured by real estate and that real estate increases in value. Also, the act of collecting shared appreciation.

Related by Blood or Marriage

Related by blood or marriage means individuals who are connected to one another as husband, wife, parent, child, brother, or sister.

Relative

A relative is an individual or spouse and anyone having the following relationship to either:

- parents
- son
- daughter
- sibling
- stepparent
- stepson
- stepdaughter
- stepbrother
- stepsister
- half brother
- half sister
- uncle
- aunt
- nephew
- niece
- grandparent
- granddaughter
- grandson
- spouses of the foregoing.

Rescheduling

Rescheduling is to rewrite the rates or terms of a single note or line of credit agreement.

Restructuring

Restructuring is the changing terms of a debt through either a rescheduling, deferral, or writedown or a combination thereof.

Security

Security is property of any kind subject to a real or personal property lien. Any reference to “collateral” or “security property” shall be considered a reference to the term “security.”

Definitions of Terms Used in This Handbook (Continued)

Shared Appreciation Agreement

A shared appreciation agreement is an agreement between a guaranteed lender and borrower that requires a borrower that has received a write down on a guaranteed loan secured by real estate to repay the lender all or some of the writedown received, based on a percentage of increase in the value of that real estate at some future date, if certain conditions exist.

Socially Disadvantaged Applicant

A socially disadvantaged applicant is a loan applicant who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as a member of a group, without regard to their individual qualities. For entity applicants, the majority interest has to be held by socially disadvantaged individuals. FSA has identified socially disadvantaged groups to consist only of Women, Blacks, American Indians, Alaskans Natives, Hispanics, Asians, and Pacific Islanders.

State or United States

State or United States is the major political subdivision of the United States and the organization of program delivery for the Agency. The United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

State Beginning Farmer Program

A State beginning farmer program is any program that is carried out by, or under contract to, a State and designed to assist persons in obtaining the financial assistance necessary to establish a new or maintain a recently established farming or ranching operation.

Subordination

Subordination is a document executed by a lender to relinquish the priority of their lien, in favor of another lender that provides that lender with a superior lien position to secure a debt with the same collateral.

Subsequent Loans

Subsequent loans are any loans processed by the FSA Finance Office after an initial loan has been made to the same borrower.

Transfer and Assumption

Transfer and assumption is the conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of a loan in return for the assuming party's binding promise to pay the debt outstanding.

Definitions of Terms Used in This Handbook (Continued)

Typical Plan

Typical plan is a projected income and expense statement listing all anticipated cash flows for a typical 12-month production cycle; including all farm and nonfarm income and all expenses (including debt service) to be incurred by the borrower during such period.

Typical Cash Flow Budget

A typical cash flow budget is a cash flow budget that reflects the cash inflows and outflows the operation will likely incur during a normal production cycle.

Unaccounted for Security

Unaccounted for security is items, as indicated on the lender's loan application, request for guarantee, or any interim agreements provided to the Agency, that are security for the guaranteed loan that were misplaced, stolen, sold, or otherwise missing, where replacement security was not obtained or the proceeds from their sale have not been applied to the loan.

U.S. Non-Citizen National

A U.S. non-citizen national is a person born in America Samoa or Swains Island on or after the date the U.S. acquired America Samoa or Swains Island, or a person whose parents are U.S. non-citizen nationals. Typical evidence of the relatively uncommon status as a non-citizen national includes a birth certificate or passport with a document bearing a photograph of the person.

Undertaking

Undertaking means any project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those:

- carried out by or for the Agency
- carried out with Federal financial assistance
- requiring a Federal permit, license, or approval
- subject to State or local regulation administered pursuant to a delegation or approval of a Federal agency.

Veteran

A veteran is any person who served in the military, naval, or air service during any war as defined in 38 U.S.C. 101(12).

State Supplements



Subparagraph	State Supplement
267 B	Guidance on determining how the file review requirement will be met in their State.

Note: SED's shall:

- issue State supplements according to 1-AS, paragraph 216
- obtain approval of State supplements according to 1-AS, paragraph 220.

***--Demand for Payment, Notice of Intent to Collect by Non-Centralized Administrative Offset, Including Internal Administrative Offset, Centralized Offset, and Other Applicable Debt Collection Methods**

Note: Exhibit 17 will be available in a fillable format at <http://intranet.fsa.usda.gov> under form name "2-FLP Exhibit 17".

	
United States Department of Agriculture	
Farm and Foreign Agricultural Services	
Farm Service Agency	
[County Office Name]	
FSA Office [Any Town, ST XXXXX-XXXX]	
Demand for Payment, Notice of Intent to Collect by Non-Centralized Administrative Offset, Including Internal Administrative Offset, Centralized Offset, and Other Applicable Debt Collection Methods	
Dear <u>[Borrower]</u> :	
This is to inform you that as a result of a final loss claim that the U.S. Department of Agriculture (USDA), Farm Service Agency (FSA) paid on your behalf, you now have a delinquent Federal debt.	
The final loss claim is based on the following guaranteed loans: (Complete as necessary from Borrower Loan Records).	
<u>Date of Loan</u>	<u>Lender</u> <u>Loan ID Number</u> <u>Loan Amount</u>
The amount of the final loss claim paid on your behalf which you owe is \$ <u>[Amount]</u> percent . Interest will accrue at the note rate of the guaranteed loan on the date the final loss claim was paid (<u>[Interest Rate]</u> %). The amount due will increase as interest accrues at the annual rate indicated.	
FSA will continue to use:	
<ul style="list-style-type: none">• Centralized offset from the U.S. Department of Treasury's Treasury Offset Program (TOP),• Non-centralized administrative offset between FSA and USDA payment authorizing agencies including, but not limited to, internal administrative offset (IAO) of payments made by FSA, and• The other debt collection actions described in this notice to collect the debt you owe FSA.	
<small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs). Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720- 2600 (Voice and TDD). To file a complaint of discrimination, write USDA, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.</small>	
	
USDA is an Equal Opportunity Employer	

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***--Demand for Payment, Notice of Intent to Collect by Non-Centralized Administrative Offset, Including Internal Administrative Offset, Centralized Offset, and Other Applicable Debt Collection Methods (Continued)**

Demand for Payment

To avoid debt collection actions you must either comply with this demand for payment of your FSA debt or successfully dispute that debt (see instructions under Debtors' Rights, pages 3-4). To repay your debt, send a check or money order, for the full amount of the debt to [Insert Service Center Name and address].

Please include your account number on your payment. The payment must be received no later than [Date] to avoid non-centralized administrative offset. To avoid centralized offset and other debt collection actions, payment must be received no later than [Date] .

Debt Collection Actions

- If the delinquent debt is not paid in full, or
- Timely resolved by the actions explained in this notice,

then USDA agencies will be notified to collect the debt by non-centralized administrative offset. Treasury also will be notified to collect by centralized offset from the following Federal Government sources or other private payments due you, if applicable:

- TOP (To obtain income tax refunds, contract or vendor payments, certain Federal benefit payments, such as Social Security, other than Supplement Security Income, Railroad Retirement (other than tier 2), and Black Lung (part B) benefits and other Federal payments, including certain loans to you, that are not exempt from offset)
- Federal salary pay, including military pay (through Treasury's centralized computer matching program, not to exceed 15 percent of disposable pay)
- Federal retirement and disability pay, including military retirement pay (from the Office of Personnel Management, in most cases not to exceed 50 percent of the net annuity).

Ineligibility for Federal Assistance

If you do not resolve your delinquent Federal debt within the time frames provided in this notice, you will be ineligible to receive future Federal financial assistance including loans (except disaster loans), loan guarantees and loan insurance.

Disclosure

Your delinquent debt also will be disclosed to a commercial credit reporting bureau. To avoid this action you must either repay your debt immediately, propose an acceptable repayment agreement or request an appeal within the time frames provided in this notice.

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***--Demand for Payment, Notice of Intent to Collect by Non-Centralized Administrative Offset, Including Internal Administrative Offset, Centralized Offset, and Other Applicable Debt Collection Methods (Continued)**

Non-Centralized Administrative Offset

FSA intends to take any future payment that you are to receive from your participation in any USDA program or contract (this includes any FSA program or contract). The amount to be offset also will include any payments to other entities equal to your *pro rata* share in the entities if FSA has a legally enforceable right under state law or otherwise to pursue entity payments. We intend to begin administrative offset **31** calendar days after receipt of this notice, unless you resolve the debt with the options set out in this notice.

Centralized Offset

Your delinquent debt will be referred to Treasury for TOP and for centralized salary offset computer matching as required by the Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. 3716, the Federal Claims Collection Standards, and Department of Treasury Regulations if the debt is not satisfied by non-centralized administrative offset of payments within USDA. Under DCIA, FSA debts over 180 days delinquent must be referred to Treasury for such collection.

Litigation

FSA intends to enforce collection by referring the debt to the Department of Justice to initiate litigation if you fail to pay or otherwise resolve the debt.

Debtors' Rights

You have the right to inspect and copy Agency records, to make other arrangements for repaying your debt and to request an appeal of this demand for payment to the National Appeals Division (NAD).

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***--Demand for Payment, Notice of Intent to Collect by Non-Centralized Administrative Offset, Including Internal Administrative Offset, Centralized Offset, and Other Applicable Debt Collection Methods (Continued)**

Access to Agency Records of the Debt

You may inspect and copy your Agency file regarding this debt by notifying your local servicing office indicated below in writing within **20 calendar days** from the date of receipt of this notice. In response, FSA will notify you regarding a time and place for your review. At your request, one copy of the documents regarding this debt will be provided at our expense.

Opportunity to Propose a Repayment Agreement

At any time within **20 calendar days** of the date of receipt of this notice, you may present a written agreement to repay the debt as an alternative to non-centralized administrative offset. Your proposed repayment agreement must document your ability to pay the delinquent Federal debt within a short period of time. A written repayment plan for paying the delinquent Federal debt may be accepted by the Agency in lieu of collection of the debt through non-centralized administrative offset of payments you are to receive.

Right to Appeal to NAD

You have the right to appeal this demand for payment to NAD in accordance with regulations published at 7 C.F.R. part 11. The issues under appeal will be limited to the existence of the debt, and the amount of the debt. If you wish to appeal this demand for payment, your written request for appeal must be postmarked no later than **30 calendar days** from the date you received this notice. Send the request for appeal to the office of the Area Supervisor, National Appeals Division, [Insert NAD Address]
[NAD address continuation].

The request for appeal must include a copy of this notice and a statement explaining why you think the demand for payment is incorrect. The request should also include your name, address, and phone number. NAD will advise you of the time and place of any hearing and of any procedural requirements. A copy of your request for appeal and any attachments should be sent to this office. When you request a NAD appeal, there will be an immediate stay of the non-centralized administrative offset and referral for centralized offset until the NAD reviewing official issues a final written decision.

Please do not delay action to pay your delinquent Federal debt or exercise the rights offered in this notice. Your delinquent Federal debt will have a negative impact on your ability to obtain other credit. No additional advance notice will be forthcoming before referral of your debt to Treasury for TOP. If a Federal income tax return is filed, and your spouse is not responsible for this debt, please contact your local IRS office before filing your return to learn how to protect your spouse's share of the refund.

***--Demand for Payment, Notice of Intent to Collect by Non-Centralized Administrative Offset, Including Internal Administrative Offset, Centralized Offset, and Other Applicable Debt Collection Methods (Continued)**

Otherwise, you can obtain IRS information at <http://www.irs.gov>, including IRS Form 8379, if applicable. You should advise your local servicing office if you or another person liable for the debt files bankruptcy. If you have any questions about FSA's procedures, please call your local servicing office at [Insert phone number] or write FSA at the address indicated above.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

USDA regulations prohibit discrimination in USDA programs because of your race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, disability; or because all or part of your income is derived from any public assistance program; or because you have filed a program complaint, participated in any program complaint proceeding, or opposed a prohibited practice.

If you believe you have been discriminated against for any of the reasons stated above, you may file a complaint with the Director, Office of Civil Rights, United States Department of Agriculture, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410.

Sincerely,



Farm Service Agency
United States Department of Agriculture

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***--Demand for Payment, Notice That Non-Centralized Administrative Offset, Including Internal Administrative Offset, Has Been Taken and Will Continue, and Intent to Collect by Centralized Offset and Other Applicable Debt Collection Methods**

Note: Exhibit 18 will be available in a fillable format at <http://intranet.fsa.usda.gov> under form name "2-FLP Exhibit 18".

United States Department of Agriculture					
Farm and Foreign Agricultural Services	Demand for Payment, Notice That Non-Centralized Administrative Offset, Including Internal Administrative Offset, Has Been Taken and Will Continue, and Intent to Collect by Centralized Offset and Other Applicable Debt Collection Methods				
Farm Service Agency					
[County Office Name] FSA Office [Any Town, ST XXXXX-XXXX]	Dear <u>[Borrower]</u> :				
	<p>This is to inform you that as a result of a final loss claim that the U.S. Department of Agriculture (USDA), Farm Service Agency (FSA) paid on your behalf, you now have a delinquent Federal debt.</p> <p>The final loss claim is based on the following guaranteed loans: (Complete as necessary from Borrower Loan Records).</p> <table border="0"><thead><tr><th><u>Date of Loan</u></th><th><u>Lender</u></th><th><u>Loan ID Number</u></th><th><u>Loan Amount</u></th></tr></thead></table> <p>The amount of the final loss claim paid on your behalf which you owe is \$ <u>[Amount]</u> . Interest will accrue at the note rate of the guaranteed loan on the date the final loss claim was paid (<u>[Interest Rate]</u> %). The amount due will increase as interest accrues at the annual rate indicated.</p> <p>FSA has taken non-centralized administrative offset, including internal administrative offset (IAO). FSA will continue to use:</p> <ul style="list-style-type: none">• Centralized offset from the U.S. Department of Treasury's Treasury Offset Program (TOP),• Non-centralized administrative offset between FSA and USDA payment authorizing agencies including, but not limited to, IAO of payments made by FSA, and• The other debt collection actions described in this notice to collect the debt you owe FSA. <p><small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs). Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (Voice and TDD). To file a complaint of discrimination, write USDA, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.</small></p> <div style="text-align: center;"> USDA is an Equal Opportunity Employer</div>	<u>Date of Loan</u>	<u>Lender</u>	<u>Loan ID Number</u>	<u>Loan Amount</u>
<u>Date of Loan</u>	<u>Lender</u>	<u>Loan ID Number</u>	<u>Loan Amount</u>		

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***--Demand for Payment, Notice That Non-Centralized Administrative Offset, Including Internal Administrative Offset, Has Been Taken and Will Continue, and Intent to Collect by Centralized Offset and Other Applicable Debt Collection Methods (Continued)**

In accordance with 31 C.F.R. 901.3(b)(4), FSA determined non-centralized administrative offset must be exercised immediately against any amounts payable to you. This is because FSA has determined that there was insufficient time before payment to allow for prior notice and opportunity for appeal. [Insert a narrative justification]
[Narrative continuation]

The payment collected was \$ [Amount] that you were to receive from
[Insert payment type]

The offset amount will include any payments to other entities equal to your *pro rata* share in the entities if FSA has a legally enforceable right under state law or otherwise to pursue entity payments. FSA also intends to continue offset from your participation in any Federal program or contract until you pay your Federal debt in full or the debt is otherwise resolved by actions explained in this notice.

Demand for Payment

To avoid debt collection actions you must either comply with this demand for payment of your FSA debt or successfully dispute that debt (see instructions under Debtors' Rights, pages 3-4). To repay your debt, send a check or money order, for the full amount of the debt to [Insert Service Center Name and address].

Please include your account number on your payment. The payment must be received no later than [Date] to avoid non-centralized administrative offset. To avoid centralized offset and other debt collection actions, payment must be received no later than [Date].

Debt Collection Actions

- If the delinquent debt is not paid in full, or
- Timely resolved by the actions explained in this notice,

then USDA agencies will be notified to collect the debt by non-centralized administrative offset. Treasury also will be notified to collect by centralized offset from the following Federal Government sources or other private payments due you, if applicable:

- TOP (To obtain income tax refunds, contract or vendor payments, certain Federal benefit payments, such as Social Security, other than Supplement Security Income, Railroad Retirement (other than tier 2), and Black Lung (part B) benefits and other Federal payments, including certain loans to you, that are not exempt from offset)
- Federal salary pay, including military pay (through Treasury's centralized computer matching program, not to exceed 15 percent of disposable pay)
- Federal retirement and disability pay, including military retirement pay (from the Office of Personnel Management, in most cases not to exceed 50 percent of the net annuity).

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***--Demand for Payment, Notice That Non-Centralized Administrative Offset, Including Internal Administrative Offset, Has Been Taken and Will Continue, and Intent to Collect by Centralized Offset and Other Applicable Debt Collection Methods (Continued)**

Ineligibility for Federal Assistance

If you do not resolve your delinquent Federal debt within the time frames provided in this notice, you will be ineligible to receive future Federal financial assistance including loans (except disaster loans), loan guarantees and loan insurance.

Disclosure

Your delinquent debt also will be disclosed to a commercial credit reporting bureau. To avoid this action you must either repay your debt immediately, propose an acceptable repayment agreement or request an appeal within the time frames provided in this notice.

Non-Centralized Administrative Offset

FSA intends to take any future payment that you are to receive from your participation in any USDA program or contract (this includes any FSA program or contract). The amount to be offset also will include any payments to other entities equal to your *pro rata* share in the entities if FSA has a legally enforceable right under state law or otherwise to pursue entity payments. We intend to begin administrative offset **31** calendar days after receipt of this notice, unless you resolve the debt with the options set out in this notice.

Centralized Offset

Your delinquent debt will be referred to Treasury for TOP and for centralized salary offset computer matching as required by the Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. 3716; the Federal Claims Collection Standards, and Department of Treasury Regulations if the debt is not satisfied by non-centralized administrative offset of payments within USDA. Under DCIA, FSA debts over 180 days delinquent must be referred to Treasury for such collection.

Litigation

FSA intends to enforce collection by referring the debt to the Department of Justice to initiate litigation if you fail to pay or otherwise resolve the debt.

Debtors' Rights

You have the right to inspect and copy Agency records, to make other arrangements for repaying your debt and to request an appeal of this demand for payment to the National Appeals Division (NAD).

***--Demand for Payment, Notice That Non-Centralized Administrative Offset, Including Internal Administrative Offset, Has Been Taken and Will Continue, and Intent to Collect by Centralized Offset and Other Applicable Debt Collection Methods (Continued)**

Access to Agency Records of the Debt

You may inspect and copy your Agency file regarding this debt by notifying your local servicing office indicated below in writing within **20 calendar days** from the date of receipt of this notice. In response, FSA will notify you regarding a time and place for your review. At your request, one copy of the documents regarding this debt will be provided at our expense.

Opportunity to Propose a Repayment Agreement

At any time within **20 calendar days** of the date of receipt of this notice, you may present a written agreement to repay the debt as an alternative non-centralized administrative offset. Your proposed repayment agreement must document your ability to pay the delinquent Federal debt within a short period of time. A written repayment plan for paying the delinquent Federal debt may be accepted by the Agency in lieu of collection of the debt through non-centralized administrative offset of payments you are to receive.

Right to Appeal to NAD

You have the right to appeal this demand for payment to NAD review in accordance with regulations published at 7 C.F.R. part 11. The issues under appeal will be limited to the existence of the debt, and the amount of the debt. If you wish to appeal this demand for payment, your written request for appeal must be postmarked no later than **30 calendar days** from the date you received this notice. Send the request for appeal to the office of the Area Supervisor, National Appeals Division, [Insert NAD Address]
[NAD address continuation].

The request for appeal must include a copy of this notice and a statement explaining why you think the demand for payment is incorrect. The request should also include your name, address, and phone number. NAD will advise you of the time and place of any hearing and of any procedural requirements. A copy of your request for appeal and any attachments should be sent to this office. When you request a NAD appeal, there will be an immediate stay of the non-centralized administrative offset and referral for centralized offset until the NAD reviewing official issues a final written decision.

Please do not delay action to pay your delinquent Federal debt or exercise the rights offered in this notice. Your delinquent Federal debt will have a negative impact on your ability to obtain other credit. No additional advance notice will be forthcoming before referral of your debt to Treasury for TOP. If a Federal income tax return is filed, and your spouse is not responsible for this debt, please contact your local IRS office before filing your return to learn how to protect your spouse's share of the refund.

***--Demand for Payment, Notice That Non-Centralized Administrative Offset, Including Internal Administrative Offset, Has Been Taken and Will Continue, and Intent to Collect by Centralized Offset and Other Applicable Debt Collection Methods (Continued)**

Otherwise, you can obtain IRS information at <http://www.irs.gov>, including IRS Form 8379, if applicable. You should advise your local servicing office if you or another person liable for the debt files bankruptcy. If you have any questions about FSA's procedures, please call your local servicing office at [phone no.] or write FSA at the address indicated above.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

USDA regulations prohibit discrimination in USDA programs because of your race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, disability; or because all or part of your income is derived from any public assistance program; or because you have filed a program complaint, participated in any program complaint proceeding, or opposed a prohibited practice.

If you believe you have been discriminated against for any of the reasons stated above, you may file a complaint with the Director, Office of Civil Rights, United States Department of Agriculture, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410.

Sincerely,


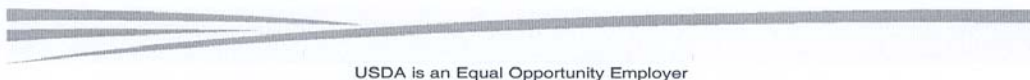
Farm Service Agency
United States Department of Agriculture

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***--Notice to a Non-Debtor Entity of Intent to Collect by Non-Centralized Administrative Offset, Including Internal Administrative Offset From an Entity Member**

Note: Exhibit 19 will be available in a fillable format at <http://intranet.fsa.usda.gov> under form name "2-FLP Exhibit 19".

	
United States Department of Agriculture	
Farm and Foreign Agricultural Services	Notice to a Non-Debtor Entity of Intent to Collect by Non-Centralized Administrative Offset, Including Internal Administrative Offset From an Entity Member
Farm Service Agency	
[County Office Name]	
FSA Office	Dear <u>[Non-debtor entity name]</u> :
[Any Town, ST XXXXX-XXXX]	<p><u>[Insert Name of Borrower]</u> , who is a member of your entity had a final loss claim paid on their behalf in the amount of \$ <u>[Amount]</u> by the Farm Service Agency (FSA). FSA's payment makes this amount a Federal debt of your entity member. This letter notifies you that the debt is now delinquent. FSA intends to take by pro rata non-centralized administrative offset your entity member's percentage share of any payments your entity is to receive from participation in any USDA program or contract (this includes any FSA program or contract). FSA will use non-centralized administrative offset of <u>[Percent]</u> of the payments made to collect the debt owed to FSA until either the entity member pays the delinquent Federal debt in full, submits a repayment plan acceptable to FSA or you or the debtor successfully disputes the debt through an appeal before the National Appeals Division (NAD). On <u>[Insert Date]</u> the debtor was notified of the opportunity to inspect and copy Agency records related to the debt, propose a written repayment agreement, and request a NAD appeal.</p> <p>The amount due on the Federal debt will increase as interest accrues at the note rate of the guaranteed loan on the date the final loss claim was paid (<u>[In. rate]</u> %) .</p> <p>You have the right to appeal this notice to NAD in accordance with regulations published at 7 C.F.R. part 11. When you request a NAD appeal, there will be an immediate stay of pro rata offset until the NAD reviewing official issues a final written decision. The issue under appeal will be limited to the percentage share which the debtor has in your entity and whether the percentage to be offset is correct. If you appeal this notice, your written request for appeal must be postmarked no later than 30 calendar days from the date you receive this notice. Send the request for appeal to the office of the Area Supervisor, National Appeals Division, <u>[Insert NAD Address]</u></p> <p>[NAD continued]</p>
<small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs). Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (Voice and TDD). To file a complaint of discrimination, write USDA, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.</small>	
	

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***--Notice to a Non-Debtor Entity of Intent to Collect by Non-Centralized Administrative Offset,
Including Internal Administrative Offset From an Entity Member (Continued)**

The request for appeal must include a copy of this notice and a statement explaining why you think the notice is incorrect. The request should include your name, address, and phone number. NAD will advise you of the time and place of any hearing and of any procedural requirements. A copy of your appeal request and any attachments should be sent to this office.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

USDA regulations prohibit discrimination in USDA programs because of your race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, disability; or because all or part of your income is derived from any public assistance program; or because you have filed a program complaint, participated in any program complaint proceeding, or opposed a prohibited practice.

If you believe you have been discriminated against for any of the reasons stated above, you may file a complaint with the Director, Office of Civil Rights, United States Department of Agriculture, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410.

Sincerely,


Farm Service Agency
United States Department of Agriculture

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***--Notice to a Non-Debtor Entity That Non-Centralized Administrative Offset, Including Internal Administrative Offset From an Entity Has Been Exercised and Will Continue**

Note: Exhibit 20 will be available in a fillable format at <http://intranet.fsa.usda.gov> under form name "2-FLP Exhibit 20".

	
United States Department of Agriculture	
Farm and Foreign Agricultural Services	
Farm Service Agency	
[County Office Name]	
FSA Office	
[Any Town, ST XXXXX-XXXX]	

**Notice to a Non-Debtor Entity That Non-Centralized Administrative Offset,
Including Internal Administrative Offset From an Entity Has
Been Exercised and Will Continue**


Dear [Non-debtor entity name] :

[Insert Name of debtor] , who is a member of your entity had a final loss claim(s) paid on their behalf in the amount of \$ [Amount] by the Farm Service Agency (FSA). FSA's payment makes this amount a Federal debt of your entity member. This letter notifies you that the debt is now delinquent. FSA has exercised and intends to continue to exercise non-centralized pro rata administrative offset of your entity member's percentage share of any payments that the entity is to receive from participation in any USDA program or contract (this includes any FSA program or contract). FSA used non-centralized administrative offset of [Percent] percent of the payments made to collect the debt owed to FSA until either the entity member pays the delinquent Federal debt in full, submits a repayment plan acceptable to FSA or you or the debtor successfully disputes the debt through an appeal before the National Appeals Division (NAD).

FSA has determined that offset must be exercised immediately against the delinquent member's percentage amount that is payable to the entity. This is because FSA has determined that there was insufficient time before payment or disbursement to the entity to allow for prior notice and opportunity for appeal. [Insert a narrative justification]
[Narrative continuation]
The payment collected was \$ [payment] that the entity member was to receive from [Insert payment source]. While you will not avoid immediate offset of the payment if you appeal, if you prevail on appeal, FSA will return the offset with interest and discontinue any future offsets unless you are re-notified.

FSA also intends to take the entity member's percentage share of any future entity payments or disbursements that the entity is to receive from any USDA program or contract until either the entity member pays the Federal debt in full, submits a repayment plan acceptable to FSA, or you or the entity member successfully disputes the debt through an appeal before the National Appeals Division (NAD). The amount due on the Federal debt will increase as interest accrues at the note

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs). Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2500 (voice and TDD). To file a complaint of discrimination, write USDA, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.


USDA is an Equal Opportunity Employer

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***--Notice to a Non-Debtor Entity That Non-Centralized Administrative Offset, Including Internal Administrative Offset From an Entity Has Been Exercised and Will Continue (Continued)**

rate of the guaranteed loan on the date the final loss claim was paid ([Int. rate] %).
On [Date] the debtor was notified of the opportunity to inspect and copy Agency records related to the debt, propose a written agreement to repay the debt, and request an appeal before NAD.

You have the right to appeal this notice to NAD in accordance with regulations published at 7 C.F.R. part 11. The issues under appeal will be limited to the correctness of FSA's determination that there was insufficient time before the USDA payment to provide prior notice and the opportunity to appeal, the percentage share which the debtor has in your entity, and whether the percentage offset was correct.

If you appeal this notice, your written request for appeal must be postmarked no later than 30 calendar days from the date you receive this notice. Send the request for appeal to the office of the Area Supervisor, National Appeals Division, **[Insert NAD Address]**
[NAD address continued]

The request for appeal must include a copy of this letter and a statement explaining why you think the notice is incorrect. The request should include your name, address, and phone number. NAD will advise you of the time and place of any hearing and of any procedural requirements. A copy of your appeal and any attachments should be sent to this office.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

USDA regulations prohibit discrimination in USDA programs because of your race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, disability; or because all or part of your income is derived from any public assistance program; or because you have filed a program complaint, participated in any program complaint proceeding, or opposed a prohibited practice.

If you believe you have been discriminated against for any of the reasons stated above, you may file a complaint with the Director, Office of Civil Rights, United States Department of Agriculture, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410.

Sincerely,

Farm Service Agency
United States Department of Agriculture

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Notice of Referral to the Department of Treasury to Collect Through the Treasury Offset Program (TOP) - Sent by KCFO Only

**Notice of Referral to the Department of Treasury to
Collect Through the Treasury Offset Program (TOP)**

Dear [Insert name of debtor]:

Our records indicate that the Farm Service Agency (FSA) paid a final loss claim to your lender on your guaranteed loan account and that amount is considered a Federal debt you now owe FSA. FSA previously demanded payment and notified you of intended debt collection actions and your rights in resolving the delinquency. As notified, FSA will use centralized administrative offset through the Treasury Offset Program (TOP) as required by the Debt Collection Improvement Act, 31 U.S.C. 3716, the Federal Claims Collection Standards, 31 C.F.R. parts 900-904, and the USDA administrative offset regulations at 7 C.F.R. Part 3 to collect your delinquent debt.

The time periods for resolving this matter have expired and your delinquent debt has been referred to TOP. Interest is accruing daily on this debt. The total amount due will continue to increase until the debt is paid or settled.

A representative of the Department of Treasury will contact you regarding offsets of Federal payments after they occur. To avoid offset of an Internal Revenue Service (IRS) tax refund where a joint Federal income tax return is filed and your spouse is not responsible for the debt, please contact your local IRS office before filing your return to learn how to protect your spouse's share of the refund.

For further information, call the toll-free number at 1-800-428-9643.

Sincerely,

